

**IN THE FEDERAL COURT**

BETWEEN:

**PICTOU LANDING BAND COUNCIL**

**and MAURINA BEADLE**

Applicants

- and -

**ATTORNEY GENERAL OF CANADA**

Respondent

Counsel:

Solicitor for the Applicant: Ms. Anne Levesque

Solicitor for the Respondent: Mr. Jonathan Shapiro

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This is the cross-examination held at Halifax, Halifax  
Regional Municipality, Province of Nova Scotia on October  
18, 2011, of **MS. JACQUELINE SUSAN ROSS.**

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**EXHIBITS**

<b><u>EXHIBIT</u></b>	<b><u>DESCRIPTION</u></b>	<b><u>PAGE</u></b>
9	Needs Assessments	7

1 OCTOBER 18, 2011 - 9:48 a.m.

2

3 JACQUELINE SUSAN ROSS, duly called and sworn,  
4 testified as follows:

5

6 COURT REPORTER: Would you state your full name  
7 for the record, please?

8 A. Jacqueline Susan Ross.

9

10 CROSS-EXAMINATION BY MS. LEVESQUE

11

12 MS. LEVESQUE: So my name is Anne Levesque and we're  
13 here this morning on October 18th, 2011 with regards to  
14 Federal Court matter File number T-1045-11. So Pictou  
15 Landing Band Council and Maurina Beadle versus the  
16 Attorney General of Canada. And today we will be  
17 conducting the cross-examination of Susan Ross on her  
18 affidavit sworn September 21st, 2011.

19 So, firstly, Mrs. Ross, thank you so much for  
20 attending today. I know you're not feeling well so I'll  
21 try to make it quick. If there are any questions that I  
22 ask you that you don't understand or if they're based on  
23 a false precedent or a premise, just please clarify.  
24 Don't hesitate or, if there's a question that's not  
25 clear, I can rephrase, if you have any concerns.

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1           **A.**    Okay.

2           **Q.**    Okay, so I trust that you've reviewed the  
3 affidavit of Philippa Pictou and Barbara Robinson.

4           **A.**    Yes.

5           **Q.**    Okay, I might be asking you questions about the  
6 documents in those affidavits.

7           **A.**    I may have to refer.

8           **Q.**    Of course.

9           **A.**    I'm not as familiar with them.

10          **Q.**    You don't know them by heart.

11          **A.**    No.

12          **Q.**    I just about do.

13          **A.**    I'm sure.

14          **Q.**    I spent many nights with these documents. So  
15 I'll start with your affidavit. Maybe first I'll take  
16 you paragraph two.

17          **A.**    Uh-huh.

18          **Q.**    Where you describe your position.

19          **A.**    Yes.

20          **Q.**    So you speak about providing clinical guidance  
21 and expertise to the staff employed by the Band. Can you  
22 tell me a bit what you mean by clinical guidance?

23          **A.**    Well, sometimes I have communities that call me  
24 but, more often than not, it would be the two  
25 coordinators that would call me for advice and I am able

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1 to direct them at times to appropriate resources so that  
2 they would get the most up-to-date clinical direction.

3 Q. So it's more directing to resources and  
4 providing information than advice on the care to  
5 patients?

6 A. Exactly. More often than not, I'm referring to  
7 a resource because it's been a number of years since I've  
8 been in the field and things change.

9 Q. Okay. And you describe at paragraph four and  
10 six.

11 A. Uh-huh.

12 Q. The home care program as a capacity-building  
13 program. What do you mean by this?

14 A. Well, when the program was set up, it was meant  
15 to be a community based, community paced program for the  
16 communities. We had specific parameters in place with  
17 the program but certainly as far as the capacity-building  
18 program, we recognized that the infrastructure was not in  
19 the communities at the current time and so we were able  
20 to, using the resource guide, the tool kit, which was  
21 provided to every community, it was like a step-by-step  
22 program for establishing your home care program in the  
23 community.

24 Q. And when you say "no infrastructure," what do  
25 you mean by infrastructure?

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1           **A.**    By infrastructure, I mean there may not have  
2           been trained personnel to deliver personal care. There  
3           may not have been the capital assets to deliver care. So  
4           things like hospital beds, that kind of.

5           **Q.**    And the program was meant to help communities  
6           build those, that capacity.

7           **A.**    That's right.

8           **Q.**    Okay. And, currently, is there any funding to  
9           assist communities in continued capacity building?

10          **A.**    Within the ... Initially, how the program was  
11          set up is that I believe the first allocation of funding  
12          ... Do you want me to stop?

13          **OFF RECORD            (TIME:     9:52 a.m.)**

14          **RESUMES                (TIME:     9:55 a.m.)**

15          **MS. LEVESQUE:**    Okay, so we were at the initial,  
16          when the initial program was started in capacity  
17          building.

18          **A.**    Okay, so all communities were allocated some  
19          funding so that they could complete a Needs Assessment,  
20          to look for things like what services are being provided  
21          or were being provided, where were there areas where  
22          services weren't being delivered. I'm just going to  
23          refer to my affidavit here. It explains the purpose of  
24          the Needs Assessment.

25          **Q.**    And I was given this by your counsel today.

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1 It's a document we requested. It's a Needs Assessment.

2 A. Yes.

3 Q. I'd like to mark it as an exhibit, please. Do  
4 you have it in front of you?

5 **EXHIBIT 9 - NEEDS ASSESSMENT MARKED AND ENTERED**

6 A. I do, yes.

7 Q. Okay. I had a copy actually.

8 **MR. SHAPIRO:** Yes, I wanted to make sure we were  
9 looking at the same document.

10 **MS. LEVESQUE:** Yeah. Same Needs. Can I ask you a  
11 few questions about that document?

12 A. Certainly.

13 Q. First of all, when was the Needs Assessment  
14 conducted?

15 A. It was done in 2000. I see it was peer  
16 reviewed August 31st, 2000.

17 Q. You were speaking about the ... when the Needs  
18 Assessment was done, it was a way to also assess the  
19 infrastructure needs.

20 A. Yes, it was. Part of that was. But there was  
21 another process where certainly capital plans were  
22 needing to be done as well and that was in addition to  
23 the Needs Assessment. So we had capital plans submitted  
24 later as well as training plans submitted later. Now I  
25 was not in the program at that time.

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1           **Q.**    Okay, so I have here like the Needs Assessment.  
2           It has a breakdown of the population at page five. So I  
3           understand, like this was the population that the program  
4           was intended to serve?

5           **A.**    At that time, yes.

6           **Q.**    Okay. Based on your understanding, has there  
7           been fluctuations in the population since that time?

8           **A.**    I don't have current knowledge on the exact  
9           population right now. Now my understanding, in fact, it  
10          wasn't specific to the 1999 population but it was  
11          specific to the 1997 population.

12          **Q.**    Okay. So based on the information provided  
13          here, there was a funding granted.

14          **A.**    Yes.

15          **Q.**    Are you familiar with a document, it's found at  
16          Philippa's affidavit, Tab F. So it's evaluation of the  
17          First Nations and Inuit Home and Community Care Program.

18          **A.**    I have a working knowledge of it. I used it as  
19          a reference.

20          **Q.**    Okay. So at page 28 of that document, it talks  
21          a bit about what we're discussing right now about how the  
22          Needs Assessments were conducted and, based on those  
23          needs and population, there was funding provided to  
24          communities. Is that ... Do you want to look at one,  
25          two, three, fourth paragraph?



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1           **A.**    Uh-huh.

2           **Q.**    Okay, so is that your understanding of the  
3 formula that was used to fund Pictou Landing Band?

4           **A.**    The process, I cannot speak to the direct ...  
5 the actualities of what happened.

6           **Q.**    Okay.

7           **A.**    I know there was a steering committee that was  
8 struck and I know that the funding formula was a modified  
9 Berger formula but I do not know the specifics in regard  
10 to that.

11          **Q.**    But would it be fair to say that based on the  
12 numbers here ... So there was an overview of the  
13 population and based on that, there was a number that was  
14 calculated that represented the funding needs of this  
15 population.

16          **A.**    I can only assume.

17          **Q.**    Okay. And I don't see anything here in the  
18 Needs Assessment as to the provincial programs and what  
19 was provided, offers or ... Do you know if that was  
20 considered when determining the appropriate level of  
21 funding?

22          **A.**    I have no idea.

23          **Q.**    Okay. So you don't know if this is the funding  
24 formula that determines how bands are funded. Like how  
25 the home care, how the amounts of funding is determined.

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1           **A.**    I know that there was a modified Berger used.  
2           That was the premise for the funding.  But I do know that  
3           the steering committee did have influence on what was  
4           eventually distributed.

5           **Q.**    Okay.  So how is the level of funding set, do  
6           you know?

7           **A.**    The level of funding does not change  
8           significantly from year to year.  The initial funding is  
9           still in place over the last four years.  So we have  
10          received funding increases to manage cost of living.  
11          Prior to that time, I cannot tell you how ... if there  
12          were any funding increases or anything.

13          **Q.**    Okay, so the initial funding, there was a sum  
14          given based on the numbers here, which is the population  
15          in '97.  And since that time, there's a period that you  
16          weren't involved.

17          **A.**    That's right.

18          **Q.**    So we don't really know what happened there.

19          **A.**    Exactly.

20          **Q.**    In the past four years, there's been ... The  
21          increases have been attributed to cost of living.

22          **A.**    Yes.

23          **Q.**    What about increase in the population?

24          **A.**    That has never been addressed.

25          **Q.**    In Philippa Pictou's affidavit, she swore that

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1 the population is currently about six hundred.

2 **A.** Uh-huh.

3 **Q.** Does that sound accurate to you?

4 **A.** I don't know.

5 **Q.** Okay. And what about changes in, for example,  
6 in the assessment we spoke about, the average age of the  
7 population, how many people needed health care, how many  
8 people had been hospitalized, as those numbers change,  
9 has the funding changed?

10 **A.** No.

11 **Q.** What about the average minimum wage of personal  
12 care workers and average wages of nurses?

13 **Q.** That, to my knowledge, communities are given  
14 the sum of money and, on an annual basis, they need to  
15 look at their funding and determine priorities and needs  
16 based on that. They have, using general guidelines, they  
17 have to follow but they are, certainly have the mandate,  
18 as long as they provide essential services, they can re-  
19 profile funding.

20 **Q.** Just to clarify, what about changes in the  
21 provincial programming. If the province comes up with a  
22 new home care program that provides nursing services or  
23 special funding to keep children in the home, programs  
24 for people with disabilities, if there's a massive change  
25 in the provincial policy, will that affect the envelope,

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1 the block funding given to the community?

2 **A.** No. We do not have that, I guess, leeway.  
3 There is a provision in the contribution agreement,  
4 though, that should the Band have, you know, want to  
5 access more resources. Now there are no resources from  
6 the home care but Pictou Landing is a transferred  
7 community. So under their transfer agreement, it is my  
8 understanding that they can use other program resources,  
9 surplus funds, to offset some of the home and community  
10 care costs.

11 **Q.** Yes, so I think you're referring to, in Tab B  
12 of Philippa's affidavit, volume one. Transfer of  
13 resources is at page five. I think that's probably what  
14 you're talking about. So Section 8.

15 **A.** I can't really see the numbers here very well.

16 **Q.** Oh, I'm sorry. You can't see the page numbers?

17 **A.** No.

18 **Q.** Can you direct her to Section 8?

19 **A.** Transfer of resources between programs?

20 **MR. SHAPIRO:** Let me just verify. We can't see the  
21 page numbers. Is that the decision that you're referring  
22 to?

23 **MS. LEVESQUE:** Yeah.

24 **A.** That is correct.

25 **Q.** Okay. So I think what you're saying is that

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1 ... So a targeted program would be the home care program.

2 A. That's right.

3 Q. It's a specific pot of money for a specific  
4 program.

5 A. Uh-huh.

6 Q. And then there's the general health services  
7 transfer, which is a lump sum of money for operational  
8 things, right?

9 A. Uh-huh. That's correct, sorry.

10 Q. That's okay. Now so you can't use home care  
11 money to fund stuff in the general pot.

12 A. No.

13 Q. But you can take money from the general pot  
14 to ...

15 A. That's correct.

16 Q. Okay, but it also says that you can't take  
17 money from the transfer payment if it will jeopardize the  
18 ability to deliver any services under the general  
19 program.

20 A. That's correct. So these funds that could be  
21 transferred would be surplus funds.

22 Q. Okay.

23 A. So funds not used by the program.

24 Q. So it's only if there's a surplus that it would  
25 be appropriate.

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1           **A.**    That's right.

2           **Q.**    Okay.  And otherwise, that option is not  
3 available to the Bands?

4           **A.**    Well, within the home and community care  
5 agreement, it's Schedule 3, there is on the ... if I can  
6 find it here.  I'm not familiar with the layout of this.

7           **Q.**    Yeah, it's awkward.  There's a lot of schedules  
8 and appendix.

9           **A.**    Here it is here.  It's schedule ... no, that's  
10 10.  No, that's right, Schedule 10, Phase 3, service  
11 delivery.  And it's still within Section B.  It's towards  
12 the back.

13          **Q.**    There's no page numbers.  So it's a bit  
14 awkward.  I have like a Table of Contents.  Is that what  
15 we're looking at?

16          **A.**    No.

17                (Background comments re finding document)

18                I have that.

19                So on the section 8, okay, it says:  "The recipient  
20 shall notify the regional office of proposed changes to  
21 the approved service delivery plan that will impact the  
22 ability of the recipient to deliver all the essential  
23 elements."

24                So if, you know, if the Band was not able to provide  
25 according to the service delivery plan that was

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1 submitted, they could certainly send in a new service  
2 delivery plan.

3 Q. Okay, and then what happens?

4 A. Well, then it goes through a peer review  
5 process. Hopefully, it would be approved but it would be  
6 approved bearing in mind the funding.

7 Q. The funding of?

8 A. The amount of funding available.

9 Q. Available to the Band or available through ...

10 A. Available through the home care program.

11 Q. Okay.

12 A. Yeah.

13 Q. Okay, thank you. That's very helpful. Just to  
14 finish on the agreement, there's a section, it's Section  
15 23 about unforeseen circumstances.

16 A. Okay, where are we again?

17 Q. Sorry, page 12. Not that that helps you, but  
18 it's more at the beginning of the ...

19 A. I should have kept my finger in it.

20 Q. I feel badly, my copy is nice and clean.

21 **MR. SHAPIRO:** What was the section number?

22 **MR. LEVESQUE:** Section 23.

23 **MR. SHAPIRO;** Can I just verify that we're looking  
24 at the same page? Yes.

25 **MS. LEVESQUE:** So are you familiar with this clause?

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1           **A.**    Yes, I am.

2           **Q.**    Okay, so has it ever been used to increase  
3 funding?

4           **A.**    Into the home care program?

5           **Q.**    Yeah.

6           **A.**    No.

7           **Q.**    Never?

8           **A.**    No.

9           **Q.**    In Atlantic Canada, in Canada, or ...

10          **A.**    I certainly, I can only speak to Atlantic  
11 Canada. I have never known that it has been used in the  
12 home care program.

13          **Q.**    Okay.

14          **A.**    This clause, I have seen used in other  
15 circumstances. If there was, let's say, a communicable  
16 disease outbreak, okay, it would be ... That would be one  
17 of the clauses that could come into play and there may be  
18 additional funding for programs that impact an entire  
19 community or could potentially affect an entire  
20 community.

21          **Q.**    Okay. Okay, so we'll move back to your  
22 affidavit, if that's okay, at paragraph five.

23          **A.**    Yes.

24          **Q.**    So you talk a bit about how the annual  
25 contribution agreements are done and your role in that.



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1 But, if I understand correctly, the funding remains  
2 pretty much the same with inflation.

3 A. That's right. So we don't necessarily know at  
4 the beginning of the year that we're going to get that  
5 increase.

6 Q. Okay.

7 A. So as we are notified from Ottawa, I go back in  
8 and adjust all the contribution agreements accordingly.

9 Q. So it's not like a new agreement that's created  
10 every year based on ...

11 A. No.

12 Q. Like there's not a Needs Assess ... a new Needs  
13 Assessment.

14 A. No.

15 Q. Okay.

16 A. That could be done though by the communities  
17 and, in fact, it probably would serve to enhance the  
18 knowledge in the home care program at the community level  
19 but I don't require it.

20 Q. Okay. Is it your understanding that across the  
21 country the funding increases are pretty standard? That  
22 it's based on inflation and the funding formula is the  
23 same or do you know?

24 A. Well, there are ... I think there are  
25 differences in the way that the regions do manage their

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1 budget and one of the things that I can ... that I know  
2 firsthand is that in our region we don't have a whole lot  
3 of people in our office managing. I'm the home care  
4 program in our regional office, whereas in other regions,  
5 there may be several people in the home care file. But  
6 we have operated using the tribal coordinators through  
7 UNSI and UNBI. That was the direction of the steering  
8 committee.

9 Q. That's a (great initiative?)

10 A. Uh-huh.

11 Q. Interesting. Okay. Okay, so I'll take you to  
12 maybe paragraph 21 and 22.

13 A. Uh-huh.

14 Q. So this is about when you spoke to someone, a  
15 provincial assessor, the continuing care program.

16 A. Yes.

17 Q. Do you remember when you spoke to ...

18 A. Yes, that was during the case conference.

19 Q. Oh, okay, during the case conference, okay.

20 A. Yes.

21 Q. And 21, you say it's my understanding that  
22 Jeremy requires 24 hour seven day ... 24 hours a day and  
23 seven days a week care from a registered nurse. Is that  
24 your understanding of what his needs are?

25 A. In section 20?

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1           **Q.**    Yeah.

2           **A.**    It's my understanding that based on the  
3           discussions above that he requires the care of certified  
4           home care staff working under the supervision of a  
5           registered nurse.

6           **Q.**    Okay.

7           **A.**    That was the knowledge that I gained at the  
8           case conference.

9           **Q.**    Okay, and the provincial official who you spoke  
10          to said, no, we don't offer that.

11          **A.**    That's correct.

12          **Q.**    Okay. Did you discuss what happens when  
13          there's two people in need in one household?

14          **A.**    No, we didn't.

15          **Q.**    And did you discuss the level of care that the  
16          family, for example, Jonathan or friends were able to  
17          provide Maurina and Jeremy?

18          **A.**    Yes.

19          **Q.**    Were you aware of any contributions that they  
20          could make in terms of care?

21          **A.**    It was discussed during the case conference  
22          what they provided.

23          **Q.**    Okay, so what ...

24          **A.**    And there was a concern that Maurina's other  
25          son, who would have helped her with the care, was going

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1 out fishing.

2 Q. That's in the first case conference.

3 A. Yes.

4 Q. Okay. Fishing for how long?

5 A. I don't know. That was the general reference  
6 that was made.

7 Q. Okay. And then there was a second case  
8 conference, you refer to at paragraph 25 of your  
9 affidavit.

10 A. Yes.

11 Q. You refer to the affidavit of Barbara Robinson  
12 and notes that were taken, at page 109. Do you recognize  
13 those notes?

14 A. I've seen them before, yes.

15 Q. Do you know who took them?

16 A. I don't know who took that.

17 Q. Do you think it was someone that worked for  
18 Health Canada or INAC or ...

19 A. I have no way of knowing that. I know they're  
20 not my notes.

21 Q. Okay. That's okay, sorry, that was not a good  
22 question. So this is, I guess a summary of the meeting.  
23 At page 111, it says that ... I'll let you turn to it.  
24 So since this stroke, there is 24-hour care and now  
25 there's, the care is 8:30 until 11 ... 8:30 a.m. until

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1 11:30 at night. Is that your recollection of what was  
2 discussed at the meeting?

3 **A.** Yes, I remember hearing that.

4 **Q.** And when you heard that, did you go back to the  
5 provincial official that you spoke to and asked him if  
6 that level of care would be provided by the province?

7 **A.** I did not. As I said, it was a case  
8 conference.

9 **Q.** I'll take you to page ... still in the same  
10 document, 187. And if you don't recognize these e-mails,  
11 that's fine. You're not on these. So this is a thread  
12 of e-mails between Wade Were and Suzanne Stevens. Do you  
13 know who these people are?

14 **A.** Yes, I do.

15 **Q.** And here Suzanne mentions removing away from  
16 the dollar figures and expressing service limits in terms  
17 of maximum hours and maximum visits. Were you aware of  
18 this change of policy?

19 **A.** Yes, I was.

20 **Q.** Okay.

21 **A.** Yeah.

22 **Q.** And just a bit lower, it says, there's a dollar  
23 figure here. It calculates what 145 hours works out to  
24 about 6,600 a month.

25 **A.** Yes, I see that.

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1           **Q.**    Okay.  Were there any changes to the funding to  
2           Pictou Landing when this change in policy came about?

3           **A.**    No.

4           **Q.**    What about when the Boudreau decision came out?  
5           Are you aware of that case?

6           **A.**    I am aware of it.  I've seen it in the  
7           affidavit.  There were no funding changes.

8           **Q.**    Okay.  At paragraph 22 of your affidavit.

9           **A.**    Uh-huh.

10          **Q.**    You say you're not aware that 24-hour home  
11          nursing care is provided by any level of government in  
12          Canada.

13          **A.**    That's correct.  At the time I swore my  
14          affidavit, I was not aware of any instance of 24-hour  
15          care.  The day after, I received notification from  
16          somebody in Ottawa that there was a case in Saskatchewan.

17          **Q.**    Okay.

18          **A.**    I don't know the detail of that case.

19          **Q.**    Great.  Thanks for being so (up front?)  I  
20          maybe have you turn to Tab G in volume 2 of Philippa  
21          Pictou's affidavit.

22          **A.**    Uh-huh.

23          **Q.**    Okay.  Sorry, "H", I apologize.  Have you seen  
24          this document or do you know what it is?

25          **A.**    Yes, I have seen it.

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1           **Q.**    So would you say that this is kind of an  
2           equivalent to the home care program of what's offered off  
3           reserve?

4           **A.**    Could you ... I'm not sure I understand your  
5           question.

6           **Q.**    So this is a policy manual on the home care  
7           program of Nova Scotia.

8           **A.**    Yes.

9           **Q.**    Okay. And would you say that this ... I mean I  
10          know there are differences and it's very complicated and  
11          I don't claim to understand those fully but is it  
12          somewhat of an equivalent program?

13          **A.**    To the First Nation and Inuit Home Care  
14          Program?

15          **Q.**    Yeah.

16          **A.**    In the First Nation and Inuit Home Care  
17          Program, St. Elizabeth Home Care was contracted to  
18          develop a template of policies for communities. The  
19          templates were provided to the communities and they, in  
20          turn, created their own policy manuals for the program.

21          **Q.**    Okay. Can you turn to page 61?

22          **A.**    Yes.

23          **Q.**    So this is a special program that's available  
24          in Nova Scotia where there's 24 hour services provided on  
25          an exceptional basis for five days. Are you aware of

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1 this program?

2 **A.** Yes, this only exists in the Capital District  
3 Health.

4 **Q.** Okay. And I don't know if you're able to tell  
5 me this but do you think that initially when Jeremy and  
6 after Maurina had her stroke this is something Jeremy and  
7 Maurina might have been able to qualify for?

8 **A.** To my knowledge, they would not have been able  
9 to qualify because this is only in the Capital District  
10 Health Authority.

11 **Q.** Okay, but otherwise do you think they might  
12 have met the conditions?

13 **A.** I would have to reread them.

14 **Q.** Like had they been residing in this health  
15 authority?

16 **A.** Generally, this ... It's to address quick  
17 response program in Capital District Health. This  
18 policy, it's my understanding, was created because of the  
19 backlog of clients awaiting long-term care or care in a  
20 hospital. And so there was an emergency crisis for  
21 emergency beds, right, they were filling them. That is  
22 the only knowledge I have. I don't have specific in-  
23 depth knowledge about it.

24 **Q.** Okay. I'm maybe going to take you back to Ms.  
25 Robinson's affidavit.



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1           **A.**    Okay.

2           **Q.**    And page 112.

3           **A.**    Uh-huh.

4           **Q.**    So this is a press release that was made  
5 following the decision, I understand, or drafted on May  
6 20th.

7           **A.**    Okay.

8           **Q.**    It says here that the decision not to provide  
9 24 hour ... to provide 24-hour home care is the  
10 prerogative of families in First Nations.  Would you  
11 agree that that's inaccurate?  That Pictou Landing wasn't  
12 providing 24-hour home care?

13          **A.**    Could you rephrase that?

14          **Q.**    Well, is it your understanding that Jeremy and  
15 Maurina were receiving 24-hour home care at the time?

16          **A.**    In May 20th?

17          **Q.**    Uh-huh.

18          **A.**    I actually don't know for sure but I thought  
19 that they had ... I thought they had decreased the hours  
20 prior to May 20th, but I would have to check what that  
21 date was.

22          **Q.**    Well, according to the notes that we looked at  
23 earlier, that's what was discussed in your meeting in  
24 April, wasn't it?

25          **A.**    Uh-huh.  Yeah.

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1 Q. So this is inaccurate.

2 A. No, I would not say it's inaccurate. It is ...  
3 The decision to provide 24-hour care is the prerogative  
4 of families or the bands, the First Nation bands.

5 Q. What about paragraph two, page two, the last  
6 paragraph? It says, "The level of care requested 24-hour  
7 home care." Is that inaccurate, do you think?

8 A. In May 20th it my understanding that the level  
9 of care requested was not 24 hour at that time. However,  
10 there was a request made for reimbursement of the 24-hour  
11 care.

12 Q. Okay. You spoke a bit about how the Atlantic  
13 region is unique in that there's a role for ... there's  
14 tribal ...

15 A. Home care coordinators.

16 Q. Okay, and what is their role?

17 A. Their role generally is to provide second level  
18 support to First Nations communities. First Nations  
19 communities hire their own nurses or they may have an  
20 agreement with an agency to provide service, okay, and  
21 they provide support to that level. Nursing and personal  
22 care work.

23 Q. And you also mentioned when there was the  
24 initial Needs Assessment, there was a steering committee?

25 A. Yes.

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1 Q. And who was on that steering committee?

2 A. Oh, my, I can't tell you at this point.

3 Q. Okay, that's okay. Do you have any ideas, like  
4 nurses, First Nations communities?

5 A. It was compiled of representative from First  
6 Nations organizations. It was compiled of  
7 representatives from Health Canada. And there were also  
8 community members on the steering committee.

9 Q. One of the roles in the policies, the home care  
10 program was to provide services that are comparable to  
11 those available off reserve.

12 A. They have a suite of essential services that  
13 are meant to be provided. Now we don't tell them that  
14 they have to provide it. If they can access that service  
15 by their linkages with other departments, provincial  
16 services, district health services, that's okay. You  
17 know, that shows that they're meeting the terms and  
18 conditions of the agreement.

19 Q. One of the purposes is also culturally  
20 sensitive services.

21 A. Uh-huh.

22 Q. What does that mean to you?

23 A. Well, I guess that goes back to my initial  
24 comment. The program was designed by the community,  
25 right? So it could be community based and community

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1 paced and represent culturally sensitive care to their  
2 clients. They're designing the program so that it is  
3 acceptable to their clients, within general principles.

4 Q. I'll take you back to your affidavit.

5 A. Uh-huh.

6 Q. If I can find it. You, at paragraph 13 to 16,  
7 it's under the heading, Jordan's principle.

8 A. Yes.

9 Q. So you say initially you weren't aware of  
10 Jordan's principle?

11 A. I was minimally aware. I had been involved in  
12 a session a couple of years prior to that but I wasn't  
13 ... It's ... I'm not the focal point. I don't deal with  
14 it everyday. So I didn't know the extent of the detail.

15 Q. And you provide a definition of your  
16 understanding of Jordan's Principle?

17 A. That's right..

18 Q. On what do you base this?

19 A. This is information that I received from the  
20 Jordan's Principle focal points. Barbara Robinson and  
21 Wade Were.

22 Q. So, in Barbara Robinson's affidavit, she  
23 explains that Health Canada has a Jordan's Principle  
24 focal person points ... person, I guess.

25 A. That's right..

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1           **Q.**   And then there's also, INAC has one. Like how  
2 do you explain those distinct roles or like what would  
3 you say the role of the focal point, Jordan's Principle  
4 focal point person in Health Canada would be, as you  
5 understand it?

6           **A.**   I am not that person. That is Wade Were.

7           **Q.**   Okay.

8           **A.**   And I can't tell you what his job description  
9 is.

10          **Q.**   So this definition, they're the ones that  
11 provided it to you?

12          **A.**   Yes, and I also saw a document, a general  
13 information document but certainly the majority of this  
14 came from the lead on Jordan's Principle.

15          **Q.**   For example, at subparagraph "V" you say that  
16 it applies for children with multiple disabilities  
17 requiring services from multiple service providers. So  
18 would you say that it doesn't apply where a child only  
19 has one disability?

20          **A.**   In this case, yes, I would say it wouldn't.

21          **Q.**   Okay, so a child with autism who requires  
22 services that are available off reserve, but not on  
23 reserve, would not be covered by Jordan's Principle.

24          **A.**   Normally, a child with autism has numerous  
25 characteristics, right. They may be ... they may require

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1 speech and language. They may require behavioural  
2 interventions.

3 **Q.** Okay.

4 **A.** Yeah.

5 **Q.** You speak about jurisdictional disputes between  
6 a provincial government and a federal government. Do you  
7 think that there could be also circumstances where  
8 children are caught between different levels of federal  
9 governments?

10 **A.** In the description, it specifically says  
11 provincial and federal governments.

12 **Q.** Okay, but, for example, could there be a  
13 situation where a child requires maybe a health service  
14 and it's not clear if it's covered by, let's say, child  
15 welfare or assisted living or home care. Do you think  
16 that could happen?

17 **A.** I'm sure it could.

18 **Q.** Okay, and Jordan's Principle wouldn't apply  
19 then?

20 **A.** I think it would have to be examined on a ...  
21 like multi-party examination to determine if there was a  
22 dispute regarding, you know, funding.

23 **Q.** Okay. So you think it can apply within  
24 departments of the federal government?

25 **A.** I am not an expert in Jordan's Principle. This

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1 information, I understand, came from experts in Jordan's  
2 Principle. That is not my expertise.

3 Q. Okay, sorry. I'll just maybe put one last  
4 question. At Tab N of Philippa Pictou's affidavit. Do  
5 you know the Caring Society, the First Nations Child and  
6 Family Care?

7 A. I only know of it, just very briefly.

8 Q. So at the second page of this they say, "What  
9 is Jordan's Principle?" First paragraph. And the  
10 definition here is much broader.

11 **MR. SHAPIRO:** Is there a question?

12 **MS. LEVESQUE:** No, no, sorry. I wanted to give her  
13 time to read it.

14 **MR. SHAPIRO:** Sure.

15 **MS. LEVESQUE:** So would you agree that some  
16 advocates propose that the definition of Jordan's  
17 Principle is broader than the one applied by the federal  
18 government?

19 A. I would say this one is broader, yes.

20 **MS. LEVESQUE:** Okay. I don't think I have any more  
21 questions for you.

22 **MR. SHAPIRO:** I don't have any questions for re-  
23 examination.

24 **WITNESS WITHDRAWS**

25

**CERTIFICATE OF COURT TRANSCRIBER**

I, Faith MacKinnon, Court Transcriber, hereby certify that I have transcribed the foregoing and that it is a true and accurate transcript of the cross-examination given in this matter, taken by way of electronic digital recording.

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FAITH MACKINNON

(Registration No. 2006-55)

**11 November 2011**

**Dartmouth, Nova Scotia**