

VOLUME 4 OF 5

Court File No. CV-25-00000750-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

THE REGIONAL MUNICIPALITY OF WATERLOO

Applicant

and

PERSONS UNKNOWN AND TO BE ASCERTAINED

Respondents

APPLICATION UNDER Rule 14.05 of the *Rules of Civil Procedure*

JOINT TRANSCRIPT BRIEF

(Application Hearing, returnable April 16, 17, and 20, 2026)

March 13, 2026

Paliare Roland Rosenberg Rothstein LLP
155 Wellington Street West, 35th Floor
Toronto ON M5V 3H1
Tel: 416.646.4300

Gordon Capern (LSO # 32169H)
Tel: 416.646.4311
Email: gordon.capern@paliareroland.com

Andrew Lokan (LSO # 31629Q)
Tel: 416.646.4324
Email: andrew.lokan@paliareroland.com

Kartiga Thavaraj (LSO # 75291D)
Tel: 416.646.6317
Email: kartiga.thavaraj@paliareroland.com

Greta Hoaken (LSO # 87903I)
Tel: 416.646.6357
Email: greta.hoaken@paliareroland.com

Lawyers for the Applicant,
The Regional Municipality of Waterloo

-2-

TO: **Waterloo Region Community Legal Services**
450 Frederick Street, Unit 101
Kitchener, ON N2H 2P5

Ashley Schuitema (LSO # 68257G)
Tel: 519.743.0254 ext. 17
Email: ashley.schuitema@wrcls.clcj.ca

Joanna Mullen (LSO # 64535V)
Tel: 519.743.0254 ext. 15
Email: joanna.mullen@wrcls.clcj.ca

Shannon K. Down (LSO # 43894D)
Email: shannonkdown@gmail.com

Lawyer for the Respondents

AND TO: **Swadron Associates**
115 Berkeley Street
Toronto, ON M5A 2W8

Jen Danch (LSO # 74520I)
Tel: 416.362.1234
Email: jdanch@swadron.com

Karen A. Steward (LSO # 58758O)
Barrister & Solicitor

Tel: 416.270.0929
Email: karenannesteward@yahoo.ca

Perez, Procope, Leinveer LLP
55 University Avenue, Suite 1100,
Toronto, ON M5J 2H7

Mercedes Perez (LSO # 48381L)
Tel: 416.320.1914
Email: mperez@pbplawyers.com

Lawyers for Intervener/*Amicus Curiae*,
the Mental Health Legal Committee

AND TO: **Ursel Phillips Fellows Hopkinson LLP**
555 Richmond St. W., Suite 1200
Toronto, Ontario M5V 3B1

Kristen Allen (LSO # 62789C)
Tel: 416.969.3502
Email: kallen@upfhlaw.ca

Simone Truemner-Caron (LSO # 82968M)
Tel: 416.642.4504
Email: struemnercaron@upfhlaw.ca

Lawyers for the Intervener,
The Canadian Civil Liberties Association

-3-

AND TO: **Falconers LLP**
10 Alcorn Avenue, Suite 204
Toronto ON M4V 3A9

Asha James (LSO # 56817K)
Email: ashaj@falconers.ca

Erin McMurray (LSO # 90874H)
Email: erinm@falconers.ca

Lawyers for the Intervener,
Aboriginal Legal Services

Aboriginal Legal Services
211 Yonge Street, Suite 500
Toronto ON M5B 1M4

Emily Hill (LSO # 46899Q)
Email: emily.hill@als.clcj.ca

Christa Big Canoe (LSO # 53203N)
Email: christa.bigcanoe@als.clcj.ca

AND TO: **Professor emerita Martha Jackman**
Faculty of Law, University of Ottawa
57 Louis Pasteur, Ottawa, ON K1N 6N5

Tel: 613.720.9233
Email: Martha.Jackman@uOttawa.ca

Lawyers for the Intervener,
The Charter Committee on Poverty Issues /
The National Right to Housing Network

AND TO: **Attorney General of Ontario**
Constitutional Law Branch
Civil Law Division
4th Floor, McMurtry-Scott Building
720 Bay Street
Toronto ON M7A 2S9

Andrea Bolieiro (LSO # 60034I)
Tel: 437.551.6263
Email: andrea.bolieiro@ontario.ca

Sara Badawi (LSO # 87480W)
Email: sara.badawi@ontario.ca

Lawyers for the Intervener,
Attorney General of Ontario

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Court File No. CV-25-00000750-0000

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:

THE REGIONAL MUNICIPALITY OF WATERLOO

Applicant

and

PERSONS UNKNOWN AND TO BE ASCERTAINED

Respondents

APPLICATION UNDER Rule 14.05 of the *Rules of Civil Procedure*

This is the continued Cross-Examination of **Peter Sweeney** on his affidavits dated June 6, 2025, July 2, 2025, July 31, 2025, and September 16, 2025, taken via Zoom video-conference on consent of the parties on December 12, 2025.

APPEARANCES:

ANDREW LOKAN, Mr. Counsel for the Applicant
GRETA HOAKEN, Ms.

ASHLEY SCHIUTEMA, Ms. Counsel for the Respondents
JOANNA MULLEN, Ms.
SHANNON DOWN, Ms.
CHARLOTTE CAHILL, Ms. Student-at-law

MERCEDES PEREZ, Ms. Amicus Curiae

(i)

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DECEMBER 12, 2025

PETER SWEENEY, PREVIOUSLY AFFIRMED

CONTINUED CROSS-EXAMINATION BY MS. DOWN:

1. Q. Good morning, Peter.

A. Hi, Shannon.

2. Q. We're back to reconvening your cross-examination so I'll just remind you that you're still under oath. And I am just going back to my notes.

So I think -- so first of all, I did reach out to someone who was familiar with the winter packages. And they confirmed that tents are provided as part of those packages. Is that your understanding as well?

A. Yeah, so I also did, with permission of -- you know, within the rules of engagement here, that, yeah, so there's a \$150,000 budget allocation that's been in place for a few years now.

That money flows the -- an MOU to a number of community partners. And they are the ones who both purchase and distribute packages according to the folks that they're interacting with. And tents are one of the things that they, in their discretion, can distribute with those funds.

3. Q. Okay. Thank you. And I think we're --

P. Sweeney (Cr.-Ex.) - 5

1 when we left off yesterday, we were talking about, you
2 know, I had asked you about what the short-term,
3 immediate plan was once the encampment is closed. And
4 in a world where there is no alternative encampment in
5 sight.

6 And I had asked you like what happens if one
7 of the 1,000 unsheltered people who are looking for a
8 place to stay, what happens to them? And, you know,
9 in a situation where the shelters are full.

10 I think, you know, you provided me with a
11 response but I am going to suggest that in your
12 response -- your response was essentially -- and I am
13 paraphrasing -- but that this is the -- this is the
14 difficulty of the situation we're in. That there
15 isn't -- there aren't options for people, those, you
16 know -- the Region has limited resources.

17 So I am going to suggest to you, is it fair
18 to say that there is no short-term, immediate plan?
19 Like there is no plan for what happens to the people
20 who are outside unsheltered once this encampment is
21 closed.

22 A. So I would say -- I would -- so I would
23 agree that we have capacity challenges. And there are
24 instances as you've described. We have both short,
25 medium and long-term plans to support people who are

P. Sweeney (Cr.-Ex.) - 6

1 experiencing homelessness. That are plans that are
2 aligned with the Council-approved budget and service
3 levels.

4 4. Q. Okay. So -- sorry, someone's just
5 ringing my doorbell. Sorry, can I just take a very
6 brief break?

7 A. It was on drop-off.

8 5. Q. I don't know what it is. One second.

9
10 --- OFF THE RECORD

11
12 BY MS. DOWN:

13 6. Q. So you were saying there is a short,
14 medium and long-term plan?

15 A. Yes, correct. We have -- we have plans
16 within our existing funding envelope and service-level
17 framework that Council sets for us.

18 And, you know, as we move through the next
19 number of months and years, we will continue to
20 implement that plan. That includes additional new,
21 net-new, supportive housing. As you know, across the
22 street at the Working Centres coming on ---

23 7. Q. I'm just going to interrupt you there
24 because I'm really asking you something that is very
25 specific. I think you're talking in generalities. So

P. Sweeney (Cr.-Ex.) - 7

1 I am asking specifically what is the short-term plan
2 for people who are unhoused who say have been given a
3 tent, what is the short-term plan for where they can
4 go?

5 A. So the short-term plan that I can give
6 you is a plan that is in existence right now that has
7 limited resources relative to the demand that we see
8 in this community, have continued to see in this
9 community.

10 And our long-term plan is to get to a point
11 where we have a functional ---

12 8. Q. I'm talking about the immediate short-
13 term. So I just want to know in specifics what's the
14 immediate short-term plan for someone who has been
15 given a tent, who cannot access shelter and who is
16 outside? Where can they go?

17 A. So if there's no capacity within the
18 system and the resources that I -- my team has
19 responsibility for -- we have situations as you know
20 where people are left to make their own decisions.
21 And we know in this community that some people in
22 those situations sleep outside.

23 9. Q. Yeah, and I'm asking like is -- what is
24 the Region's response to that, though? Because right
25 now you have a Code of Use By-law that says you cannot

P. Sweeney (Cr.-Ex.) - 8

1 camp on regional property. And we went through
2 yesterday, there's really nowhere where people can
3 camp.

4 So what is the Region's response to that
5 situation?

6 A. So the Department of Community Services
7 for whom I can speak on behalf as the person
8 responsible for that, is to support as many people as
9 we can with the resources we have. And I ---

10 10. Q. So I am going to suggest there is no
11 plan for those people. There is no direction that you
12 can provide to those people to say here's where you
13 can go?

14 A. We are not -- my staff team are not in
15 a position to recommend or tell people that they can
16 sleep outside in a specific area in this community.

17 11. Q. Okay, so there's no like protocol or
18 policy or, you know, direction with respect to people
19 who are in those circumstances?

20 A. And the "circumstances" you mean
21 specifically those who are -- who would be ---

22 12. Q. Unsheltered with a tent looking ---

23 A. Okay.

24 13. Q. --- for somewhere to stay?

25 A. So I believe the question is, is there

P. Sweeney (Cr.-Ex.) - 9

1 a protocol for those situations in a ---

2 14. Q. Yes.

3 A. --- (indiscernible) currently? There
4 is not.

5 15. Q. Okay. And so you said yesterday you
6 said it would rarely happen that there isn't space in
7 the shelter system. We were talking about the
8 situation where someone can't access it.

9 And so I just want to look at a document and
10 I am going to ask Charlotte if she can put it up on
11 the screen. It's -- the document is titled, it's a
12 slide deck from the "November 2025 Co-creators
13 meeting, HSS data update."

14
15 --- SCREENSHARE

16
17 A. Sorry, just give me a second. I'm --
18 oh, you're putting it up on that ---

19 16. Q. Yeah.

20 A. Hang on, I'm just waiting.

21 MS. CAHILL: Can you see that on the screen?

22 MS. DOWN: Yes. I can.

23
24 BY MS. DOWN:

25 17. Q. Peter, can you see it?

P. Sweeney (Cr.-Ex.) - 10

1 A. I can, yeah. Now I can, yeah, it's
2 popped up.

3 18. Q. Okay, so this is a document produced by
4 regional staff, is that correct?

5 A. It would appear that way, yes.

6 19. Q. Okay. And have you seen this document
7 before?

8 A. I don't recognize this slide deck, no.

9 20. Q. Okay. I want to turn to slide -- are
10 these -- sorry. Maybe just -- is this -- have you
11 seen other slide decks of HSS data updates that are
12 provided to the community? Is this something that is
13 a regular occurrence?

14 A. So can you just remind me. This was a
15 slide deck presented by regional staff to co-creators?

16 21. Q. Yes.

17 A. Yes, so my understanding is that would
18 naturally occur as a part of that process. But I
19 don't recognize this data or this particular slide.

20 22. Q. Okay. But you're not challenging that
21 is -- that it's a regional document?

22 A. No.

23 23. Q. Okay. I just ---

24 A. No, it's the numbers at the bottom --
25 the numbers at the bottom are a bit of a ---

P. Sweeney (Cr.-Ex.) - 11

1 24. Q. A giveaway?

2 A. Yeah, a bit of a tell.

3 25. Q. Okay. I want to turn ---

4 A. But go ahead.

5 26. Q. Charlotte, if you can move down to
6 slide No. 8.

7 So when I look at this slide it's entitled,
8 "Reasons for Turn-aways."

9 A. Turn-aways, yeah.

10 27. Q. Yeah. And so it's talking -- turn-
11 aways would be people who are -- and correct if I am
12 wrong but my understanding is turn-aways are people
13 who are turned away from emergency shelters for a
14 number of reasons.

15 A. Yeah, and I -- again, I think this is
16 either -- yes, that's my understanding.

17 28. Q. Okay.

18 A. Yeah.

19 29. Q. So it seemed to be saying at -- that
20 there were -- I am not sure, it looks to me like at
21 the bottom, it says, "26 unique turn-aways." But at
22 the bottom it says, "Total of 59 ---

23 A. Fifty-nine?

24 30. Q. --- turn-aways," for the month of
25 October 2025.

P. Sweeney (Cr.-Ex.) - 12

1 A. Yeah.

2 31. Q. So that would mean in October 2025,
3 there were 59 people turned away from the emergency
4 shelter system.

5 A. Yeah, I don't -- I can't say I
6 understand the relation between the 26 and the 59.

7 32. Q. Yeah, the 59 actually seems to
8 correlate more to the specific numbers that are in the
9 slide.

10 A. Yeah.

11 33. Q. So, okay. So that's -- I mean, would
12 you agree with me that that seems like a significant
13 number of people who are turned away for the month of
14 October.

15 MR. LOKAN: Shannon, if I can -- you and the
16 witness are both looking at a document that
17 the witness hasn't seen before. And you're
18 asking him to interpret it. So we're kind
19 of speculating as to what it means. And I
20 only say that because it occurs to me, you
21 say 59 people but it could be the same
22 person who is successively turned away from
23 different sites. So ---

24 MS. DOWN: It could be.

25 MR. LOKAN: But that's 26 versus 59, I don't

P. Sweeney (Cr.-Ex.) - 13

1 know -- I don't know if that's important to
2 your question. But the assumption that
3 there's 59 people is one that I don't see
4 anywhere in the document.

5 MS. DOWN: Okay, and that could be -- it
6 could be not 59 people. I am not sure it
7 matters. I mean, whether it's 26 or 59,
8 that seems to me that that's a significant
9 number of people being turned away for the
10 -- like in one month from the emergency
11 shelter system.

12
13 BY MS. DOWN:

14 34. Q. It's indicating that the system must be
15 operating at a pretty high capacity. Is that fair to
16 say?

17 A. Absolutely.

18 35. Q. Okay. And so it doesn't seem to me
19 like this is -- I mean, is this a rare occurrence then
20 that people are turned away? Or is this ---

21 A. I can't ---

22 36. Q. Because this happened fairly recently.

23 A. Yeah, I can't comment on frequency.
24 I'd be happy to endeavour get some data to show how
25 often this happens to give an accurate data-informed

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1 place. I will say is we are responsible for the
2 housing stability system. This system, which we have
3 significantly increased over the last number of years.

4 And, yeah, there are situations and
5 occasions where we are over-capacity. And that's a
6 really -- that's a really unfortunate place to be and
7 it's not something that we want to operate in that
8 environment.

9 37. Q. Okay. So I would ask for an
10 undertaking that we get the data on the number of
11 turn-aways for, say, from April until current day,
12 this month.

13 MR. LOKAN: Looks like it goes by months so
14 that would be ---

15 MS. DOWN: Up until the end of November, I
16 guess. So that's a yes?

17 MR. LOKAN: Subject to Peter confirming it's
18 something that can be obtained, I have no
19 problem with the undertaking.

20 THE WITNESS: And my assumption is we pulled
21 this data, you know, obviously for a slide.
22 So that should not be -- like the data
23 clearly exists.

24 **UNDERTAKING**

25 MS. DOWN: Okay. And could we ---

P. Sweeney (Cr.-Ex.) - 15

1 THE WITNESS: As it should.

2 MS. DOWN: And could we mark this document,
3 the slide deck, as an exhibit? I think
4 we're on Exhibit 2 or 3?

5 MR. LOKAN: Yes, on the basis that if we
6 have any reason to -- you're going to send
7 us a copy of this document and we can check
8 against the Region's files. And if we have
9 any reason to doubt it, we'd let you know
10 but provisionally, that's fine.

11 MS. DOWN: Absolutely.

12 MR. LOKAN: Yeah.

13 MS. DOWN: I am going to refer to it again,
14 so we'll look at some of the other pages.

15 MR. LOKAN: We can give it a number on that
16 basis.

17 MS. DOWN: Yeah. I think -- Charlotte, are
18 we on No. 2?

19 MS. CAHILL: For numbered, maybe one,
20 because we have -- I think we had a lettered
21 one.

22 MS. DOWN: No, we had a numbered one
23 yesterday. So I think this is No. 2, so
24 we'll mark it as Exhibit 2.

25 MR. LOKAN: The reporter will let us know.

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1 I didn't have anything else marked as a
2 numbered exhibit but we'll figure it out
3 from the transcripts.

4 MS. DOWN: Okay.

5 MADAM REPORTER: Well, actually I hate to
6 interrupt, Charlotte was right. There was a
7 lettered, there was an Exhibit A yesterday.
8 But there was no number or lettered exhibit.
9 So it should be No. 1.

10 MS. DOWN: I thank you, Barbara.

11
12 EXHIBIT NO. 1: Slide deck

13
14 MADAM REPORTER: Sorry.

15 MS. DOWN: That's okay, thank you.

16
17 BY MS. DOWN:

18 38. Q. So I just want to think about the
19 circumstances of someone who is going, you know, in
20 the month of October calling First Connect to get a
21 shelter bed and getting turned away.

22 And I can -- because I'm thinking about -- I
23 wanted -- I want to talk a little bit about shelter
24 capacity and the numbers and why someone -- and we
25 talked a little bit yesterday about people choosing

P. Sweeney (Cr.-Ex.) - 17

1 not to go into shelters. So I just want to explore
2 that a bit with you.

3 And I don't know, would you agree that if
4 you were one of the people who was turned away, so if
5 you tried to get a space and you were turned away, you
6 might make the decision the next day to set up a tent
7 somewhere to -- because at least in that situation you
8 would know you have somewhere to stay, right?

9 Because if you were -- if you're calling and
10 getting turned away, you know, I'm going to be
11 thinking am I going to get turned away tomorrow night
12 as well? And I just -- I want to know I've got
13 somewhere to lay down and rest and sleep.

14 So it's possible that someone might not
15 access a system for a very valid reason because it's
16 been -- it's been full to them, they've been turned
17 away from it. And that would be a very valid reason
18 not to -- not to access shelter.

19 A. So I will agree with you that that
20 scenario that you just described in terms of somebody
21 calling, not being able to access a shelter bed and
22 then making a different decision the next day because
23 of that experience, is a possibility.

24 39. Q. Right. So just because there is space
25 in shelter doesn't mean that there aren't people out

P. Sweeney (Cr.-Ex.) - 18

1 there who might otherwise want it. I mean, it could
2 be that they -- they have tried to access shelter in
3 the past, they were unsuccessful and they've given up.
4 That's a possibility. Is that -- is that your
5 understanding?

6 A. I would agree that's a possibility.

7 40. Q. Okay. And it's not really -- I mean, I
8 think we can -- I'm hoping we can agree that in that
9 circumstance, it's not really choosing to stay in a
10 tent. It's not like it's, you know, I'm choosing to
11 stay in an Air BnB instead of a hotel.

12 It's, you know, they just don't have any
13 real options in those circumstances.

14 A. Oh, yeah, I mean, I will agree that the
15 reasons for individuals spending the night or multiple
16 nights in a tent, sleeping rough, are varied and
17 unique. And agree that the word "choice" is a
18 relative -- relative thing for folks.

19 41. Q. Right, it's -- I mean, I think choice
20 -- I would almost -- would you agree that "choice" is
21 somewhat misleading because it suggests that they have
22 like a, you know, a breadth of options.

23 A. I would agree that some people in these
24 circumstances have fewer choices than others.

25 42. Q. Right, some of them may have almost no

P. Sweeney (Cr.-Ex.) - 19

1 choice.

2 A. I would agree that there are scenarios
3 where people feel that they don't have any other
4 choice.

5 43. Q. Okay. So can we agree that encampments
6 of some kind are necessary in the current system.
7 Like someone needs to -- live if they're being turned
8 away, they need to exist, right? And it's winter, you
9 know. I am going to suggest that they need the
10 ability to be able to put up a tent somewhere.

11 A. So, sorry, can you phrase the -- there
12 was a lot there, Shannon.

13 44. Q. Yeah, I am saying in these ---

14 A. I want to be sure I answer the
15 question.

16 45. Q. --- circumstances -- yeah. So in these
17 circumstances, this situation of October 2025, you
18 know, 26 or 59 people being turned away, that
19 encampments are necessary. Like someone -- people
20 need -- the Region's handing out tents. I am assuming
21 that's for the purpose of someone to be able to put
22 that tent up somewhere in this circumstance where
23 they're being turned away.

24 MR. LOKAN: Shannon, I just would ask you to
25 be a little careful with the evidence

P. Sweeney (Cr.-Ex.) - 20

1 because you build in assumptions. First,
2 you said there's 59 people, we discussed
3 that. Second, you said ---

4 MS. DOWN: I said 26 or 59.

5 MR. LOKAN: That's not what I heard, maybe
6 I'm wrong. But you also said the Region
7 hands out tents, when the witness' evidence
8 is that the Region gives grants to the
9 partner organizations that, at their
10 discretion, choose to provide tents.

11 You know, I don't want to be pedantic
12 but let's stick to the evidence as it was,
13 if we can.

14
15 BY MS. DOWN:

16 46. Q. Okay, so the Region funds people --
17 funds organizations to hand out tents. In these
18 situations, I'm saying doesn't that show that
19 encampments are necessary in this current situation
20 that we're in?

21 A. I would say my response to that,
22 Shannon, is that encampments are a reality in our
23 current situation.

24 47. Q. Okay. And I just -- I don't
25 understand, how can the Region not have a plan that

P. Sweeney (Cr.-Ex.) - 21

1 addresses that reality then. That people have to
2 shelter outdoors. It isn't a choice because they
3 don't have -- there isn't space for those 1,000 people
4 who are unsheltered and the shelters are full. So ---

5 A. So ---

6 48. Q. --- you know, how can the Region not
7 have a plan that addresses that when you're
8 responsible for the -- for homelessness, for
9 addressing homelessness and providing solutions to it?

10 A. Yeah, so the Community Services
11 Department for which I am responsible has a mandate
12 and a source of funding and service levels that we can
13 operate within. And there also exists, as we
14 discussed yesterday, a Code of Use By-law.

15 And so I don't have -- we don't have, my
16 department, my team, does not have the authority or
17 mandate to provide direction where people currently in
18 this community can tent in a way that is not in
19 violation of some by-law or other upper-tier or lower-
20 tier level.

21 49. Q. Okay, but your department, you work
22 with other departments. You're, you know, you
23 coordinate and collaborate, I am assuming, with the
24 other groups of the Region.

25 Is it something that either you have in the

P. Sweeney (Cr.-Ex.) - 22

1 past or you could recommend like that there be some
2 sort of protocol for addressing this situation?

3 A. So the only way we could move a
4 protocol -- and why don't we just call it what we're
5 talking about is a safe-tenting protocol, I believe is
6 what you're referring to? Can we just clarify?

7 50. Q. Yes. Yes.

8 A. So the only manner in which that would
9 be something that could be considered is if there was
10 a direction from our collected Council to change by-
11 laws. And I don't have that direction.

12 51. Q. Right, and would -- is that something
13 like Council just comes up with that on their own?
14 Because my understanding is it's usually staff
15 presents recommendations to Council. And then Council
16 votes on it and provides their direction back.

17 MR. LOKAN: Shannon, I am going to object to
18 any question which is about staff -- the
19 content of staff recommendations to Council.
20 That is something that occurs within a
21 deliberate and secrecy context. I'm not
22 objecting to ---

23 MS. DOWN: But I'm asking -- I'm not asking
24 ---

25 MR. LOKAN: --- (indiscernible) nature of

P. Sweeney (Cr.-Ex.) - 23

1 whether encampments are needed, whether, you
2 know, Peter and his group's reaction to the
3 scenarios you propose, all that is fine.
4 All of that is factual. But if you want to
5 get into the process of staff
6 recommendations to Council and how all of
7 that works and the deliberative secrecy
8 aspects, I am going to object. Just to let
9 you know.

10 MS. DOWN: Are you telling me that the
11 process itself is secret?

12 MR. LOKAN: So if you want to ask about a
13 general process unconnected to any specific
14 recommendation, I don't have a problem with
15 that. Because that doesn't require -- that
16 doesn't require getting into deliberative
17 secrecy.

18 If you want to start asking about
19 content, I am going to object.

20
21 BY MS. DOWN:

22 52. Q. So in a general sense, Peter, does
23 Council come up with directions on how to provide
24 social services or does social services come up with
25 the plans and present it to Council? What's the

P. Sweeney (Cr.-Ex.) - 24

1 order?

2 A. In my -- so in my experience in the
3 last three and a half years, Shannon, is policy
4 direction can come both ways.

5 53. Q. All right.

6 A. I have seen policy -- I have seen and
7 experienced policy direction come both ways.

8 54. Q. So just hypothetically, if an
9 encampment, a safe-tenting policy was going to be
10 proposed, it could be proposed by social services and
11 suggested to Council. You wouldn't have to wait for
12 Council to provide that direction?

13 A. The -- there is ---

14 MR. LOKAN: You can answer that without any
15 reference and ---

16 THE WITNESS: Yeah, that's what I'm ---

17 MR. LOKAN: --- (indiscernible) without any
18 reference to a particular policy.

19 THE WITNESS: I don't -- I don't want to be
20 obtuse here but I do actually would like an
21 opportunity to have a conversation with my
22 legal counsel. Given the recent
23 conversation that many people in this room
24 have been privy to in a confidential manner,
25 I am feeling -- I am feeling like I'm -- I

P. Sweeney (Cr.-Ex.) - 25

1 need to take a break and I want to have --
2 can I do that?

3 MR. LOKAN: So here's what we'll do.

4 Shannon, you're skating on thin ice and I am
5 going to object to this line of questioning.
6 You asked about how in general terms
7 recommendations can go and got the answer it
8 could come in either direction.

9 But I would ask you to go no further,
10 please.

11
12 BY MS. DOWN:

13 55. Q. So, I mean, you talk about it in your
14 third affidavit -- I am just going to ask you about --
15 you talk about the practical non-feasibility of an
16 alternate encampment site. And essentially reject --
17 that's at Paragraph 41.

18 A. Okay, just give me a second here.

19 Yeah.

20 56. Q. So essentially you reject the premise
21 of an alternative encampment site or sites. And I am
22 going to suggest to you that really isn't consistent
23 with the reality of the situation that we have.
24 Where, you know, people are being turned away from
25 shelters and provided with tents.

P. Sweeney (Cr.-Ex.) - 26

1 A. So I will -- I would like to clarify
2 that as I reference in this affidavit, I am referring
3 specifically to an alternate encampment site that
4 would simply be 100 Victoria as is on another
5 location. It is a -- that is a specific one-for-one
6 reference in that context.

7 57. Q. Okay. I am going to turn now to your
8 second affidavit at paragraph -- well, you mention in
9 this one that you stand by your statement. Sorry, you
10 stated in your second affidavit at Paragraph 32 -- so
11 we'll turn to that first.

12 A. Can you give me a second, please?

13 58. Q. Yeah.

14 A. Okay, go ahead.

15 59. Q. So you state there that you stand by
16 your statement in your earlier, your original -- your
17 affidavit that:

18 "... An alternative encampment site is
19 inconsistent with the goals of the PECH
20 ..."

21 And that is, you know the goal of PECH
22 is to end chronic homelessness in Waterloo Region.
23 You go on to say that:

24 "... Encampments are precisely the kind
25 of emergency-based non-permanent

P. Sweeney (Cr.-Ex.) - 27

1 housing that PECH is seeking to move
2 away from ..."

3 And you -- I'm assuming you still agree
4 with that statement in your affidavit?

5 A. I do.

6 60. Q. Okay. But would you agree that motels
7 and emergency shelters are also emergency-based, non-
8 permanent responses to homelessness?

9 A. They were certainly -- sorry, they are
10 non -- emergency-based and non-permanent, I would
11 agree with that, yes.

12 61. Q. Okay. Which is the wording that you
13 used to describe encampments and said that that's
14 inconsistent with PECH. But you're not suggesting
15 that the Region would stop funding those in the short
16 term because they're inconsistent with PECH?

17 A. No, I'd like to point out that the
18 affidavit in its entirety says it is precisely the
19 sort of emergency-based and non-permanent housing-
20 focused response that the PECH is seeking to move away
21 from.

22 62. Q. Right.

23 A. Yeah.

24 63. Q. Yeah, that's what I'm saying, in the
25 short-term ---

P. Sweeney (Cr.-Ex.) - 28

1 A. Yes.

2 64. Q. In the short-term you -- would you
3 agree that motels, emergency shelters are necessary?

4 A. They are a necessary part of our
5 housing stability system where we are today.

6 65. Q. Right. And somewhere down the road, if
7 PECH is achieved, we end chronic homelessness. They
8 might not be necessary or maybe they'll only be
9 necessary in a very diminished capacity?

10 A. That would be the goal. Yes.

11 66. Q. Wouldn't the same be said of
12 encampments?

13 A. In a world where we are successful in
14 meeting the functional zero target of the PECH, then,
15 you know, in that world, people would not need to be
16 sleeping outside.

17 67. Q. Right. But you stated that you are --
18 you say that encampments are inconsistent with PECH
19 where we don't want to have them. But you're not --
20 what I am suggesting is that in that analysis, motels
21 and short-term emergency shelters are also
22 incompatible given sort of the way you framed that.

23 We're not getting rid of those in the short-
24 term because you recognize that they're necessary. So
25 are you agreeing that encampments are also, in the

P. Sweeney (Cr.-Ex.) - 29

1 short-term, a necessary feature of the housing
2 stability system?

3 A. I believe your question is premised on
4 an equivalency between an encampment at 100 Vic with a
5 motel and a shelter. And I do not agree with that
6 equivalency.

7 68. Q. But I'm saying they're -- so much like
8 a motel and an emergency shelter, are not an ideal
9 state for people to be in. They are not permanent,
10 there's no security of tenure, congregate housing,
11 people don't want to stay there. Much like -- those
12 aren't ideal solutions but they're necessary. I'm
13 saying an encampment is similar to those in that
14 sense.

15 A. I'm -- again, I feel that you're --
16 this is premised some level of equivalency. And I ---

17 69. Q. In the sense that I've just described.
18 That they're not ideal but they're necessary because
19 we don't have functional zero.

20 A. If we have -- if we had resources -- if
21 we had the resources to provide people who are
22 sleeping outside to enter into a shelter or a motel,
23 we feel is a better alternative given their -- those
24 options are inside and there's levels of safety and
25 staff involved versus the encampment at 100 Vic which

P. Sweeney (Cr.-Ex.) - 30

1 has none of those things.

2 70. Q. But that's not the reality of the
3 situation we're in. We don't have shelter beds for
4 everybody.

5 A. Yes, I agree, it doesn't. Yes, I
6 agree.

7 71. Q. Okay. So, I mean, I'm just suggesting
8 that, again, encampments are a necessary in the short-
9 term give the disparity between the number of
10 unsheltered people and the availability of permanent
11 housing. Until we get to that functional zero state.

12 A. And I will say I acknowledge what
13 you're suggesting.

14 72. Q. Okay. Was it the lack of a plan to
15 address the situation of people needing to put up a
16 tent somewhere and not having any sort of policy or
17 protocol? Isn't that harmful to people because it
18 will result in them having to constantly set up, take
19 down their tents, be harassed by by-law, be moved on?
20 Isn't that going to cause harm?

21 A. There are a few questions there.
22 What's the -- can you be specific, please?

23 73. Q. Is it harmful to people to not have
24 some sort of protocol that allows them to set up a
25 tent somewhere? Because it's going to subject them to

P. Sweeney (Cr.-Ex.) - 31

1 harassment by by-law in having them to set up their
2 tents, take them down, move around?

3 A. I can't comment on what is or is not
4 harmful at an individual level. And I've already
5 addressed the question around safe tenting in terms of
6 what would need to be in place from what isn't
7 currently in place.

8 74. Q. So you don't accept that people being
9 displaced continually is harmful to them?

10 A. I acknowledge that any scenario where
11 individuals in this community don't have a safe place
12 to sleep at night can be very harmful.

13 75. Q. Okay, so you're -- that's a "yes" to
14 that question.

15 A. No, it's how I phrased it.

16 76. Q. I want to talk about chronic
17 homelessness because we talked about -- I want to look
18 at Paragraph 9 of your third affidavit. I'll let you
19 turn to that.

20 A. Yeah.

21 77. Q. So here you say that 23 of the
22 individuals ---

23 A. Can you remind me -- can you remind the
24 -- where's the date. I'm trying to ---

25 78. Q. Of your third ---

P. Sweeney (Cr.-Ex.) - 32

1 A. Yeah.

2 79. Q. --- affidavit?

3 A. Because I know -- this is a Point in
4 Time, I just want to make sure I'm mentally ---

5 80. Q. It is ---

6 MR. LOKAN: It's July 31st.

7 THE WITNESS: Okay, so these are numbers at
8 the end of July?

9 MS. DOWN: Yeah.

10 THE WITNESS: Okay. Thank you. Okay, go
11 ahead.

12

13 BY MS. DOWN:

14 81. Q. I know -- sorry, I know this is -- I
15 think this has changed since then but I just -- we can
16 talk about this and then we can talk about some of the
17 ---

18 A. Sure.

19 82. Q. --- the newer numbers. But so as of
20 July 31st, I think it -- there is a total of 23
21 individuals you said who were residing at the
22 encampment who had been assisted by the Region in
23 accessing alternate arrangements.

24 And I just wanted to know, do you know of
25 those -- the alternate arrangements, are any of those

P. Sweeney (Cr.-Ex.) - 33

1 permanent housing? Or what number of permanent
2 housing versus shelter and motels?

3 A. I don't have that information. I would
4 need to go and get that information.

5 83. Q. Okay.

6 A. I don't have information on individual
7 cases, Shannon.

8 84. Q. I'm not really interested in the
9 individual cases; I'm just wanting to know like what
10 the breakdown is ---

11 A. And I don't have that.

12 85. Q. --- between people -- okay. Is that
13 something you could undertake to get?

14 A. Yeah, we would keep track of where
15 folks moved onto.

16 86. Q. Okay. I mean, I don't think -- it's
17 unlikely that those are all permanent housing. Is
18 that fair to say?

19 A. That's fair.

20 87. Q. Okay. And would you expect that a
21 significant number -- just rough guesses -- would a
22 significant number of them not be permanent housing?
23 Like ---

24 A. Based on what I understand, Shannon,
25 how this is rolled out over the last number of months,

P. Sweeney (Cr.-Ex.) - 34

1 I would agree that the vast majority of individuals --
2 and I don't have a number, but I can get it for you --
3 who have been supported off of 100 Vic have been
4 supported into non-permanent transitional
5 accommodations of some sort.

6 88. Q. Okay. And in Paragraph 10 you talk
7 about the fact that ---

8 A. Can I also just -- can I also just add?
9 All of those, in each of those situations, those
10 decisions would have been made within -- with consent
11 from the individuals moving from 100 Vic to wherever
12 that would be.

13 89. Q. That's fine. So in Paragraph 10, you
14 talk about the fact that these alternate arrangements
15 are not time-limited, there's no expiry date by which
16 these individuals need to leave. And I just want to
17 clarify that statement.

18 That doesn't mean, though, that they have
19 any kind of security of tenure in those non-permanent
20 -- like if it's not permanent housing.

21 So if people had been put in shelters or
22 motels, there's no suggestion by you that they have
23 any security of tenure in those situations?

24 A. And security of tenure as you relate it
25 to the Act?

P. Sweeney (Cr.-Ex.) - 35

1 90. Q. Well security of tenure meaning like if
2 you -- if I'm in an emergency shelter and I do
3 something that's against the rules, I can just be
4 kicked out.

5 A. Mm-hmm.

6 91. Q. And I could be barred. If I'm in a
7 motel and the motel owner says I don't like what
8 you're doing, I can be kicked out. If I'm a tenant in
9 an apartment, there's a process. I have to be ---

10 A. Yeah.

11 92. Q. --- provided with notice, I can ---

12 A. Yes.

13 93. Q. --- challenge the notice, like, you
14 know.

15 A. Then, yes.

16 94. Q. There's a whole system.

17 A. Yeah.

18 95. Q. Okay. So you're not -- I just want to
19 clarify you're not suggesting that there's any
20 security of tenure. Like you said there's no --
21 there's no time limit but there's no security for
22 them. So they -- it's not permanent.

23 A. So, yes, so as you've defined security
24 of tenure, no, I am not suggesting that is the case.
25 The point of paragraph -- what are we on? Ten? No,

P. Sweeney (Cr.-Ex.) - 36

1 what are we on?

2 96. Q. Ten.

3 A. Ten.

4 97. Q. Just 10, yeah.

5 A. Sorry, you've got 9 there. Ten was to
6 make clear that we were not putting an artificial
7 time-constraint on individual stays in any of those
8 options.

9 98. Q. Okay, and I am going to talk to you a
10 little bit about the funding attached to that later
11 but I ---

12 A. Yeah.

13 99. Q. --- just want a couple more questions
14 about that. So, and in fact, would you agree that
15 people do get kicked out of shelters and motels and
16 end up back on the streets with some frequency?

17 A. I will acknowledge that that happens.

18 100. Q. I just want to go back to that slide
19 deck that was the Co-creators' slide deck. And ---

20 MR. LOKAN: Shannon, I can do this in re-
21 examination or you can consider it now. I
22 think there's something that you haven't
23 covered which is what happens in those -- on
24 those occasions when somebody finds that
25 they are no longer welcome at a hotel or a

P. Sweeney (Cr.-Ex.) - 37

1 shelter. And that is a question I'd ---

2 MS. DOWN: Sure, we can explore that.

3 MR. LOKAN: I think it might be better from
4 your point of view to do it at this point.

5 MS. DOWN: Sure.

6
7 BY MS. DOWN:

8 101. Q. So what happens to those people when
9 they get kicked out of the shelter or the motels?

10 A. So as I said, I am aware that those
11 scenarios do occur. And, you know, through our work,
12 our outreach work, either our own regional staff or
13 with our partners, we do our best to re-engage. And
14 try to find folks yet another additional alternative
15 location or we work with the service provider on
16 service restrictions.

17 102. Q. Okay.

18 A. So we -- they come back and, in some
19 cases, we start that conversation again.

20 103. Q. Okay, is that always successful in
21 finding those people another spot to stay?

22 A. I don't have the success rate,
23 transition rate handy.

24 104. Q. Okay, but is it possible like does it
25 happen that sometimes people are barred system-wide

P. Sweeney (Cr.-Ex.) - 38

1 from any emergency shelter?

2 A. I don't know.

3 105. Q. I have heard that, you know, I've heard
4 workers talk about the fact that there are system-
5 wide. So maybe can you confirm through an undertaking
6 whether system-wide ---

7 A. Occur?

8 106. Q. Yeah.

9 A. I can ask.

10 107. Q. Okay, thank you.

11 **UNDERTAKING**

12
13 108. Q. So if we go down to Slide 7. So this
14 is talking about the emergency shelter service
15 restrictions. So in the month of October it's saying
16 that there were 45 issued across eight shelters. And
17 that the median length of restriction was four days.

18 So this, I mean, this slide seems to be
19 suggesting again that this happens with some
20 frequency. Is that -- would you agree?

21 A. Again, I can't speak to frequency
22 without seeing it relative to other data points.

23 109. Q. Okay.

24 A. But it clearly happens. I think we all
25 know it happens.

P. Sweeney (Cr.-Ex.) - 39

1 110. Q. Okay, and that median length of
2 restriction is four days. But my understanding is
3 that the restrictions can be -- like they can be days,
4 weeks or months; is that your understanding?

5 A. I don't know the range but I will also
6 point out that the service restrictions themselves and
7 the length of time are determined by the operator, the
8 independent organizations that we fund. They are not
9 mandated or directed by regional staff or policy.

10 111. Q. Okay, does the Region -- and when
11 you're funding shelters, do you have any sort of set
12 of standards that you ask shelters to abide by? Like
13 are there shelter guidelines that the Region produces?

14 A. Yeah, we have MOUs with each of the
15 partners. I -- yeah, we have MOUs and contracts and
16 service-level expectations around -- around those
17 contracts. In my ---

18 112. Q. Okay.

19 A. Yeah.

20 113. Q. Okay. But there's -- I mean, clearly,
21 you know, these restrictions whether it's the Region
22 -- even if it's not the Region, these restrictions are
23 happening and people then could be barred from one or
24 more shelters for a number of days.

25 A. Yeah, we know that individuals within

P. Sweeney (Cr.-Ex.) - 40

1 this particular population sometimes behave in ways
2 that are deemed to be -- well, you see the top three
3 reasons right there. And there are occasionally
4 consequences for that kind of behaviour, that ---

5 114. Q. Okay.

6 A. --- we understand ---

7 115. Q. And ---

8 A. Yeah.

9 116. Q. Okay, and so the people who are being
10 moved out of 100 Victoria Street into motels or
11 shelter are subject to this risk as well. That they
12 could be -- they could be barred, they could be kicked
13 out, they could end up having to go back to an
14 encampment?

15 A. I'd say anybody, regardless of where --
16 where you're coming from, whether it be 100 Vic or
17 elsewhere, individuals who enter into the housing
18 stability system, this is -- this is a reality in the
19 shelter system that ---

20 117. Q. Okay.

21 A. --- certain behaviours are -- can
22 result in service restrictions.

23 118. Q. Which is a big -- like which really
24 distinguishes it from permanent housing. So it's not,
25 you know, I'm just -- part of what I'm -- I want to

P. Sweeney (Cr.-Ex.) - 41

1 make the point of is that these options are not a
2 substitute for permanent housing because there is no
3 security of tenure.

4 A. Yeah, I would say we don't ever try to
5 suggest that an emergency shelter is an equivalent of
6 permanent housing ---

7 119. Q. Okay.

8 A. --- which is why we insist on having
9 housing plans.

10 120. Q. Okay. And yesterday at one point, I
11 think you mentioned that -- and correct me if I get
12 this number wrong -- I think you said that you've seen
13 an eight percent decrease in overall homelessness
14 recently?

15 A. Yeah, we sent a report to Council. I
16 did not go look it up because I didn't think I was
17 allowed. We sent ---

18 121. Q. Okay.

19 A. --- a report to Council and we reported
20 a decrease in overall experience of homelessness based
21 on our data by eight percent.

22 122. Q. Okay. And I'm just going to turn --
23 ask Charlotte, can you turn to Slide 11 from this
24 slide deck? So I don't know if it -- maybe we have to
25 go to the previous slide for a second.

P. Sweeney (Cr.-Ex.) - 42

1 So I think it's showing trends on PATH, the
2 PATH system. And so if you go back to No. 11, my
3 understanding of this slide is it's showing a six-
4 month trend between inflow into chronic homelessness
5 and outflows into housing. And that explains
6 somewhere but I don't know if that's at the bottom
7 where it's not showing on my screen right now.

8 Charlotte, is there a way to go down on that
9 slide? Because it doesn't say that but I know when I
10 looked at it, I think it actually ---

11 MS. SCHIUTEMA: Is it a note to the slide?

12 MS. DOWN: It might be.

13 MS. CAHILL: Is there a way to see the notes
14 from this viewer app or ...?

15 MS. DOWN: Yeah, there doesn't seem to be.

16
17 BY MS. DOWN:

18 123. Q. Anyways, I mean it is showing an inflow
19 and outflow. I can -- I mean, maybe we can -- I can
20 ask for an undertaking that you clarify what this is
21 showing.

22 But my understanding is that it's showing
23 that for these months between May and October, that
24 there is an inflow of like 27, 23, 25, 16, 21, 30
25 people into chronic homelessness. And then the green

P. Sweeney (Cr.-Ex.) - 43

1 line was the outflow of people from the system into
2 housing.

3 So sort of comparing like who is coming in,
4 who is going out. And it seemed to be showing that
5 there's -- there's a greater inflow except for the
6 month of August and the month of September where it's
7 equal.

8 There seems to be a trend towards a greater
9 inflow into the system than there is an outflow. Does
10 that -- is that what you're seeing as well?

11 A. I mean, you're asking -- you're making
12 a bunch of assumptions on a slide deck I've never
13 seen.

14 124. Q. Okay.

15 A. And so, I'm you know, I'm not going to
16 go on a record and analyze data I have not seen.

17 125. Q. Okay. Can you -- I mean ---

18 A. I'm happy to take it away but that's
19 ---

20 126. Q. So, I mean, I guess I'm asking -- maybe
21 I'll just ask you like are you getting reports of this
22 from your staff? Like the influent of chronic
23 homelessness is increasing overall? Or -- because
24 that eight percent number that you're saying, I am
25 just trying to understand that. Like that makes it

P. Sweeney (Cr.-Ex.) - 44

1 sound like things are improving.

2 A. Yeah, we ---

3 127. Q. This slide seems to be telling me
4 something else that ---

5 A. So look, a) I don't know what we're
6 counting here. You've made the assumption that it's
7 chronic homelessness. I don't know that. What I can
8 tell is what we were -- most publicly reported is an
9 overall -- and I am on the record somewhere on YouTube
10 or one of my staff is -- an overall decrease in the
11 rate of homelessness by eight percent.

12 And while chronic homelessness continues to
13 be on the rise, it is rising at a decelerated rate
14 than it has been for the last number of years. I
15 don't have that number. I have a number in my head
16 but I don't have the report so I don't want to quote
17 it.

18 128. Q. Okay.

19 A. We know -- so what we're -- never mind,
20 I'll just leave it there.

21 129. Q. Okay.

22 A. But I can't go any further on this
23 particular dataset without more information.

24 130. Q. That's fine. Yeah, that's fine,
25 though. But your understanding is that chronic

P. Sweeney (Cr.-Ex.) - 45

1 homelessness is on the rise, although you said at a
2 decreased rate. But it is still rising?

3 A. Yes, that's -- that's the trend that
4 we've reported to Council and the community.

5 131. Q. Okay. And the chronic homelessness is
6 -- my understanding of the definition is that you've
7 been homeless for six months of the last 12 or 18
8 months sporadically over a three-year period. Is that
9 your understanding as well?

10 A. That's my understanding of how we
11 define it as well.

12 132. Q. Okay. And can we agree that chronic
13 homelessness happens when people just don't have any
14 exits out of the emergency shelter or the non-
15 permanent housing stability system into permanent
16 housing?

17 I just -- like they're kind of -- they're
18 stuck in the washing machine, the rinse and repeat
19 cycle?

20 A. Yeah, absolutely. I mean, I think we
21 -- it's well-understood that ---

22 133. Q. Yeah.

23 A. --- that's the case.

24 134. Q. Okay. And so, the people from the
25 encampment who have been offered alternate

P. Sweeney (Cr.-Ex.) - 46

1 accommodation that isn't permanent housing ---

2 A. Mm-hmm.

3 135. Q. --- they're still in that chronic
4 homelessness, potentially, situation where they're not
5 -- like I -- it seems like for a lot of people, the
6 prospect of them actually getting permanent housing is
7 remote. Because there is this rising trend of people
8 who are experiencing this long-term chronic
9 homelessness; that the exits are just not available
10 particularly for a lot of our clients who are on like
11 social assistance if you're on Ontario Works or ODSP.
12 Is that a fair statement?

13 A. Yeah, I think it's a fair statement
14 without -- you know, we -- the plan to end chronic
15 homelessness has -- is designed for two things. It's
16 to slow the inflow through upstream prevention as much
17 as possible. And to increase the outflow that
18 requires an entire systemic response.

19 And also acknowledges that the reasons for
20 chronic homelessness are multi-factorial. And, you
21 know, in a lot of cases, that there's a lot -- there's
22 a lot that individuals are facing all at the same
23 time.

24 136. Q. Okay. And if we turn to Slide 15 of
25 this exhibit, it's showing us a percentage of chronic

P. Sweeney (Cr.-Ex.) - 47

1 homelessness in adult shelters. So it's saying that
2 the people who are in the shelter, this is the
3 percentage who are considered chronically ---

4 A. Considered chronic?

5 137. Q. Yeah.

6 A. Okay.

7 138. Q. It seems like those numbers are very
8 high to me, like the overall number is 74 percent, 67.
9 Like November there's a slight dip in October.

10 But, you know, it's ranging between 67 and
11 74 percent which is significantly more than half of
12 the people who are in the shelter system who are
13 chronically homeless. So they've been homeless for
14 like a long period of time.

15 A. Mm-hmm.

16 139. Q. Would you agree that that's a pretty --
17 it's a large -- like it -- I was shocked when I saw
18 this number. It seems like a very large number.

19 MR. LOKAN: Again, Shannon, I'm just
20 wondering about the assumptions. Because I
21 see Erbs Road with 96 percent. And just
22 looking at the face of this document -- and
23 again, this witness has not previously seen
24 this document. So I am wondering whether it
25 is capturing when people enter into they

P. Sweeney (Cr.-Ex.) - 48

1 were chronically homeless or people who are
2 established there are chronically homeless.

3 And the reason I ask that question is
4 just because Erbs Road, my understanding is
5 that that is longer-term.

6 MS. DOWN: It's not permanent housing
7 though.

8 MR. LOKAN: Okay.

9
10 BY MS. DOWN:

11 140. Q. It's transitional housing so people
12 could still be there and be considered chronically
13 homeless. Is my understanding. Is that correct,
14 Peter?

15 A. Yeah, I believe if you're sort of in
16 the housing stability system, that that doesn't
17 automatically sort of shift you from a category. So
18 ---

19 141. Q. You're not in permanent housing, you're
20 still ---

21 A. You're not in permanent, yeah. So what
22 was your question about this? Just my response ---

23 142. Q. No, I'm just -- I'm just like -- I
24 mean, I'm just asking -- I'm saying this is a pretty
25 high number. I guess like the conclusion that I come

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1 to is that it's -- it seems like it's -- there's a
2 large number of people who are in the system who are
3 chronically homeless.

4 Which means, it's not like -- it's not a
5 short -- it's not a short stay for them in the
6 emergency shelter system. They're there for many
7 months or years, potentially, before they're getting
8 permanent housing.

9 A. Yeah, we've been, again, very clear and
10 transparent that in an environment where chronic
11 homelessness in this community, in this province, in
12 this country is accelerating, in some cases
13 exponentially, that emergency shelters have become
14 long-term transitional housing for a lot of people.
15 We are -- we've acknowledged that that is a challenge
16 in this work.

17 143. Q. Right, and they weren't really -- that
18 system wasn't really designed to act in that way. So
19 I mean, it's not really a system that's -- that's
20 designed to make people feel comfortable in those
21 circumstances. Is that accurate?

22 A. Yeah, my understanding is that, you
23 know, the system in which we all operate, again,
24 provincially, locally, nationally, was designed around
25 instances of homelessness that was rare, brief and

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1 non-reoccurring. Which is why we're trying to get
2 back to that.

3 144. Q. Right, so if you're someone who is
4 chronically unhoused and you're in the emergency
5 shelter system, so that could mean that you're
6 spending months in a situation where you're living in
7 congregate settings.

8 So you might be -- you might have a bed in
9 that space with 60 other people every night. You
10 don't have any privacy; you don't have any place to
11 really -- or very minimal space to store your
12 belongings.

13 It's not -- it's not really designed for
14 people to be there for long-term. Would you agree?

15 A. I would agree.

16 145. Q. And so that could be -- that's a
17 significant factor in why people might end up in an
18 encampment like 100 Victoria Street.

19 A. Yeah, again, I think well-documented
20 that we know from conversations with people why the
21 current emergency shelter system is not -- doesn't
22 meet everybody's needs. We know that, you know,
23 people have told us that. That's one of the reasons
24 why we started Erbs Road was to add a new element to
25 this, as an example. That's why we're building --

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1 trying to build affordable housing.

2 146. Q. Okay. I want to go back to the issue
3 of whether there's any of the alternative
4 accommodations, time-limited. And I think it might be
5 helpful to take a look at the staff report ---

6 A. Yeah.

7 147. Q. --- from the April 23rd Council meeting.

8 A. Yes.

9 148. Q. Because that has the budget for those
10 items. Charlotte, if you can put that up on the
11 screen.

12 MS. CAHILL: Maybe take down screensharing
13 and try again because it doesn't seem to be
14 loading.

15 MS. DOWN: Thanks.

16 MS. SCHIUTEMA: And I am wondering if we're
17 waiting for the document to be loaded, we
18 said we'd take a break around 11:00. Should
19 take a short break?

20 MS. DOWN: Sure we can do that. Do you want
21 to take a break now and then we'll come back
22 and we'll get that document on the screen?

23 THE WITNESS: Sure, whatever.

24 MS. DOWN: Okay, should we take a -- how
25 much, 10 minutes, 5 minutes? Ten minutes?

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1 THE WITNESS: Sorry, ten?

2 MS. DOWN: Ten. We'll be back at -- how
3 about we say we come back at 11:10.

4 THE WITNESS: Okay.

5 MS. DOWN: Thanks.

6
7 --- BRIEF RECESS

8
9 --- SCREENSHARE

10
11 MS. DOWN: So, Charlotte, if you can go
12 down, there's -- I think it's a couple of
13 pages down, there's the budget.

14 THE WITNESS: Is this when the by-law came
15 out?

16 MS. DOWN: Yeah.

17 THE WITNESS: Okay.

18 MS. CAHILL: Is this the page?

19 MS. DOWN: Page 6?

20 MS. CAHILL: You said Page 6?

21 MS. DOWN: Yeah.

22
23 BY MS. DOWN:

24 149. Q. This question is around the statement
25 that you made in your -- I think it's the fourth

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1 affidavit or the third affidavit. I can't remember
2 which one. About the -- not being time-limited.

3 A. Time-limited?

4 150. Q. Yeah. So I just want to clarify
5 because my understanding was that when the -- this
6 budget was produced, that the amount for the motels
7 was only for 2026. Has that changed?

8 A. No, for this specific allocation, like
9 new hotel funding, the proposal to Council was just
10 for 2026 and not itemized in the 2027 at the time of
11 consideration.

12 151. Q. Okay, so is that -- does that suggest
13 then that the 23 people who had been placed in
14 alternative accommodations, none of them were placed
15 in motels then? Because you made the statement that
16 none of that was time-limited.

17 A. Yeah, so I understand why you're asking
18 this question so I will do my best to clarify for you.

19 The individuals -- any individual who
20 receives an offer of a motel and accepts, will not, on
21 an individual level, be removed from that motel by the
22 Region with no other place to go. So that's -- that
23 is a true statement.

24 The budget here considers that at the time,
25 if you recall in April, we were considering that there

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1 were 40 people, roughly, on the site, the budget
2 considers supporting 40 individuals. And considers
3 that motels are designed to be a first step in some
4 cases to different levels of transitional housing.

5 And knowing that we have transitional and
6 supportive housing units coming online, the plan would
7 be that those individuals would not -- we would be
8 able to be in a place to offer those individuals
9 something next on their journey before the end of
10 2026. So that's the -- that was the logic behind.

11 152. Q. Okay. So the new transitional housing
12 in its -- people from motels would be transitioned
13 into them?

14 A. That's ---

15 153. Q. The ---

16 A. That's the logic behind the budget,
17 yes.

18 154. Q. Okay, but is that for sure like they
19 will get those beds in the transitional housing?

20 A. No, I think what's important to
21 consider here is that we're talking from a system
22 perspective. And so we allocate the resources on a
23 system-wide basis. And from a budgeting perspective,
24 we have to think about it from a systems perspective.

25 So that's the logic behind this.

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1 155. Q. Okay.

2 A. But at an individual level,
3 hypothetically, if there's somebody from 100 Vic who
4 is offered and takes a place in a motel with the
5 social supports, if at the end of 2026 they don't have
6 another alternative, we will not be -- the Region
7 would not move them into homelessness.

8 156. Q. I mean, in -- so like in that
9 hypothetical situation, if shelters were full at that
10 time, and these transitional housing units aren't
11 available, what would happen?

12 Like is there going to be more money that's
13 going to be allocated for motels at that time then?

14 A. So I don't have the actual number but
15 this -- this is not the full motel allocation across
16 the Region's housing and homelessness budget. This is
17 an addition to that budget.

18 157. Q. Okay. But my understanding -- and you
19 can correct me if I am wrong -- is that that overall
20 motel budget is based on like estimates. And there
21 have been times where the Region has run out of
22 funding under those -- that allocation for motels
23 during -- like during the fiscal year.

24 Is that -- has that happened?

25 A. So it's not uncommon in our work or in

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1 most organizations that the budget allocations on a
2 line-by-line basis don't have some variance.

3 We're required to live within the global
4 envelope of the housing and homelessness budget. And
5 so if there's situations where we need to move things
6 around, and we can, we do that.

7 158. Q. Right, but I -- that's what I was
8 asking about. Was for the motels, like have there
9 been situations where the Region has run out of
10 funding for motels like during the year before a new
11 allocation -- like before the next budget cycle starts
12 or the next fiscal year starts the budget cycle, the
13 next fiscal year starts.

14 Like there's a certain amount allocated. So
15 do you run out and then there's like -- well, there's
16 no more money for motels for the next two months
17 because we have used up all our motel funding for this
18 year.

19 A. So in my time at the Region, there has
20 never been a time -- a situation where we've had to
21 say there's no money left for this specific item.
22 What we do is we -- we live within the global
23 envelope.

24 159. Q. Okay.

25 A. So if we have -- if we have an

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1 overspend in one area, it's incumbent upon me and my
2 staff to live within the funding envelope and that's
3 what we try to do.

4 That doesn't mean that every line item goes
5 off exactly on budget. I would say I've never seen an
6 organization that can do that.

7 160. Q. Okay. As you said, this was premised
8 on the original plan of there being 40 original ---

9 A. Correct.

10 161. Q. And no new inflows after the by-law was
11 passed. That obviously didn't come to pass because of
12 the injunction motion. Has there been an adjustment
13 to this plan because of the injunction and the fact
14 that there are new residents or new encampment
15 residents coming on a continual basis?

16 A. So we haven't -- Council did not add
17 any further resources to our 2025 operating budget.
18 And so, individuals who have arrived at 100 Vic will
19 continue to be supported by our system as -- as we can
20 and as we're able. Much -- regardless of whether
21 they're at 100 Vic or whether they would have shown up
22 somewhere else in the system across the community.

23 162. Q. Okay, so there is no new money.

24 A. Correct.

25 163. Q. Or to sort of to make up for the fact

P. Sweeney (Cr.-Ex.) - 58

1 that this plan is -- is no longer the plan because of
2 the injunction?

3 A. Council has not added any further
4 funding beyond what you see here to the '25 ---

5 164. Q. Okay.

6 A. --- operating budget.

7 165. Q. Okay. And so there -- I mean, that
8 obviously will have implications for what can be
9 offered to the people who are there at the encampment
10 in terms of there might not be hotel beds available
11 for the new residents who are coming into the
12 encampment because they -- that wasn't budgeted for?

13 A. Yeah, I think that's no different than
14 any other year where we are trying to support as many
15 people we can with limited resources, and capped
16 resources.

17 166. Q. Okay, but in this specific -- like we
18 know that there's a deadline that people are going to
19 be, at some point, that they -- according to the
20 Region, there's a deadline at some point that you need
21 this property by. And that you're going to be looking
22 to move people on.

23 There isn't going to be funding for the
24 additional people who have moved in to go into motels.
25 So if there's no new shelter beds, what's -- what will

P. Sweeney (Cr.-Ex.) - 59

1 happen to those people at that time?

2 A. So one of the things that we continue
3 to try to do is, (indiscernible) for a system, is to
4 move people where we can through a system. And we
5 will -- we will max out the resources that we have for
6 as many people as we can.

7 167. Q. Okay. And obviously, in a situation
8 where you -- we've looked at, you know, this problem
9 of more people becoming chronically homeless, more
10 people sort of -- which means there are more people
11 getting stuck in the system, that your ability to
12 actually implement something -- like it's one thing to
13 say we're going to try. But we're seeing a system
14 that's it become increasingly, if I can use the term,
15 "clogged up."

16 So it's going to become even more
17 challenging as time goes on to find somewhere to put
18 those people. Because people aren't moving out of the
19 system; there's more people coming in and then
20 becoming chronically homelessness.

21 A. Which is why our plan to end chronic
22 homelessness is also buttressed with building better
23 futures and looking to add both affordable and
24 supportive housing net new units. It's -- the plan is
25 to ideally address both the inflow and the outflow.

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1 168. Q. And that's the plan -- I don't have the
2 paragraph in front of me right now -- but that's the
3 plan to add, I think it's 2,500 units over ---

4 A. (Indiscernible).

5 169. Q. --- by 2030. And, I mean, you know I
6 think that everyone agrees that that's great. But
7 we're also in a situation where I think the housing
8 waitlist is -- I don't know what the number is. I
9 haven't looked at it recently. I didn't have a chance
10 to look it up. But something like 7,000 households on
11 the -- 7, 8,000 households on the housing waitlist?

12 A. Yes, so we're moving from a place where
13 traditionally at a municipal level we were adding, I
14 believe before I arrived, before Building Better
15 Futures, 50 units a year to 500 units a year. And
16 we've been very transparent to say that without
17 stemming the inflow and preventing chronic
18 homelessness in the first place, it'll be continuing
19 to be a challenge to ensure that everybody does have a
20 safe place to call home.

21 170. Q. Right. So that, I mean, even though
22 the 2,500 number is a good number, it's not going to
23 -- it's not going to solve the problem when you have 7
24 or 8,000 households on the housing waitlist.

25 A. Not in and of itself.

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171. Q. Okay.

MR. LOKAN: Can you first, Shannon, perhaps let us know where the 7 or 8,000 number comes from?

MS. DOWN: Sure.

BY MS. DOWN:

172. Q. Peter, does that number -- it comes from the -- I actually looked on the Region's website to see if I could find the number, and I couldn't find it easily this morning.

A. Yeah. I don't know where we publicized -- I can't even speak, sorry.

173. Q. I wish it was on the Region's website.

A. It's going to be a long day. I don't have the number handy. I actually believe it's higher than what you've referenced. There's a lot.

174. Q. Okay, can we get an undertaking ---

A. Sure.

175. Q. --- for you to provide that, the number of households who are on the housing waitlist? Yeah, I kind of wish it was on the -- easily -- easily located but it wasn't.

UNDERTAKING

A. I'll get on that.

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1 176. Q. So I am going to -- I want to talk a
2 little bit about consultation -- issues around
3 consultation ---

4 A. Sure.

5 177. Q. --- because that's in your affidavit as
6 well. And I just -- like just generally to start
7 with. I think -- like when I think of consultation in
8 the context of policy issues, so we're not talking
9 about consultation at your doctor's office. We're
10 talking about consultation with government bodies
11 about decision-making on policies or other decisions.

12 I think that involves inviting people to
13 share their views like on an issue to help inform the
14 decision-making. Is that -- does that definition
15 resonate with you?

16 A. Yeah, I mean, I think there's a
17 continuum of consultation and, yeah, I mean, ideally,
18 it's listening to voices.

19 178. Q. Okay. And I'm going to suggest that
20 ---

21 A. Can you point me to what affidavit
22 we're going back -- like probably the first one,
23 right?

24 179. Q. I think this is on ---

25 A. I think we talked about this in the

P. Sweeney (Cr.-Ex.) - 63

1 first cross, my memory.

2 180. Q. I think this consultation part is on --
3 in your fourth affidavit.

4 A. Oh, okay.

5 181. Q. Give me one moment.

6 A. Sure.

7 182. Q. No, it's your third affidavit. So it
8 starts at -- the discussion on consultation starts on
9 page ---

10 A. Page or paragraph?

11 183. Q. Page 7, Paragraph 22.

12 A. Okay, if I can just go there.

13 184. Q. I have some general questions before we
14 get into the specifics. But that -- if you need a
15 second to ---

16 A. No, no, go ahead.

17 185. Q. --- (indiscernible). So and I mean I
18 think for consultation to be meaningful, I am going to
19 suggest that it needs to be somewhat open-ended and it
20 has to be, you know, on the one side, the ability to
21 share information. On the other side, a genuine
22 interest in receiving that feedback and taking it into
23 consideration.

24 A. Yeah.

25 186. Q. And there have not been any

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1 consultations directly with a group of encampment
2 residents about the closure of the encampment, have
3 there?

4 A. With the development of the by-law?

5 187. Q. Yes. And like the plan to close the
6 encampment.

7 A. Yes, so I think we talked about this in
8 our first cross. And, you know, I am happy to have
9 this conversation about consultation broadly and
10 specifically.

11 In this specific case of the by-law, which
12 is what I believe we're uniquely talking about here,
13 I'm on the record and will continue to be on the
14 record to say that we shared, from a Community
15 Services and Housing and homelessness perspective what
16 we could, when we could. And there were other things
17 I ---

18 188. Q. That's not what I asked though. I
19 asked if there have been any consultations directly
20 with the encampment residents about the plan to close
21 the encampment?

22 A. There have been -- I have not
23 personally had direct conversations with encampment
24 residents.

25 189. Q. I am not asking you if you personally,

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1 I am asking you if the Region has had any
2 consultations, held any consultations directly with
3 the encampment residents ---

4 A. Yeah ---

5 190. Q. --- about the closure of the
6 encampment?

7 MR. LOKAN: So, Shannon, are you including
8 or excluding in your question encampment
9 residents who spoke on the April 13th --
10 April 23rd meeting?

11 MS. DOWN: I'll get to that; I am talking
12 about consultations. That's a delegation
13 and I think that's something distinct from a
14 consultation.

15 MR. LOKAN: Well, your definition a minute
16 ago was the ability to share views with the
17 ability to influence decisions. And ---

18 MS. DOWN: Okay.

19 MR. LOKAN: --- you know, if you've got a
20 public meeting before the passage of a by-
21 law, that seems to fit squarely within your
22 definition.

23 MS. DOWN: Well, let ---

24 MR. LOKAN: I am asking you whether you are
25 including or excluding it in your ---

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1 MS. DOWN: I'll ask Mr. Sweeney about that.
2 But I'll get there but you're just going to
3 have to be patient.

4 MR. LOKAN: And you are going to have to be
5 accurate.
6

7 BY MS. DOWN:

8 191. Q. Yeah, I am asking if there was any --
9 excluding the delegation, were there any direct
10 consultations with the encampment residents about the
11 plan to close the encampment?

12 A. There were no, to my knowledge, direct
13 conversations with encampment residents about the by-
14 law prior to it becoming public.

15 192. Q. Okay, and have there been consultations
16 with the group of people who are living at an
17 encampment since the passage of the by-law about the
18 plan to close the encampment?

19 A. So on an individual level, our
20 unsheltered workers were and have been having
21 conversations about the potential for the encampment
22 no longer being an available place for folks. And to
23 engage with individuals on how that might impact them
24 on a specific individual level. And that has been
25 happening since April 16th.

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1 193. Q. And so what was the feedback from that
2 consultation then?

3 A. Well, I don't have the case-by-case
4 feedback so I can tell you of the original residents
5 on April 16th, the vast majority of them have accepted
6 offers to go elsewhere.

7 194. Q. That's not what I am asking though.
8 Like so if you're ---

9 A. Well, it is what you're ---

10 195. Q. If you're ---

11 A. --- asking.

12 196. Q. --- characterizing -- no, I'm saying if
13 you're going to characterize individual conversations
14 with people as consultation, I think there needs to be
15 -- like if you're government, you're the Region, if
16 you're doing a consultation with people, I would
17 expect there to be some sort of record of that
18 consultation. Some sort of capturing of the feedback
19 that you're getting from people.

20 Like if you're saying that sort of
21 consultation with the people at the encampment about
22 the plan, I am asking you for what was the feedback
23 and where was that captured?

24 A. So -- and I will just go back and
25 clarify that your definition of "consultation" must

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1 include the ability for an individual or a group to
2 influence a decision.

3 And in my role, I do not always have the
4 ability to offer individuals the ability to consult on
5 the outcome of a decision. And that decision is
6 squarely in the hands of an elected body.

7 So we had conversations with the residents
8 after the by-law was posted about how this might
9 impact them. And individual conversations about how
10 to navigate that decision by an elected body.

11 197. Q. But I thought you were at some point
12 said that there were conversations before about the
13 plan to close the encampment, individual conversations
14 with residents about the plan, before the by-law was
15 passed?

16 A. We have been -- in my reference that I
17 believe you're making -- I can't even speak -- it is
18 -- remains true that we have been -- both me
19 personally and the Region and individual staff on the
20 record -- since the day that 100 Vic became an
21 encampment, that this was a non-permanent solution.

22 And that at some point, the Region would
23 legitimately require this land for something else.
24 And when we knew that to be true, we would -- we would
25 tell people and we did that.

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1 198. Q. Okay, so that's not really a
2 consultation, though. Just saying like this is our --
3 we have a plan to do this, this is what's happening.
4 That's not a consultation, is it?

5 A. So you're characterizing the
6 conversations and the things that we've said. In one
7 way, I am not consulting ---

8 199. Q. So you consider that ---

9 A. I am telling you ---

10 200. Q. --- a consultation?

11 A. I am telling you the conversation that
12 we had and what we committed to the community. And we
13 stuck to that.

14 201. Q. Okay. So what I am suggesting is that
15 prior to the by-law being passed, there was no sort of
16 attempt to consult with the people who were living at
17 the encampment, gather their feedback and use that
18 feedback to inform the process. I don't think that
19 process happened, did it?

20 A. The -- there was no conversation with
21 existing residents in the context of the Region
22 bringing forward a proposed by-law specifically to
23 weigh-in on that specific by-law.

24 There is, in my world right now, no
25 mechanism -- there was not a mechanism for that to

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1 occur within the confines of a development of a by-
2 law, of this specific by-law.

3 202. Q. So you're saying it wouldn't have been
4 possible in your view to do that?

5 A. Given the constraints that are -- were
6 on me relative to confidential conversations that
7 Council holds, we shared what we could, when we could.

8 203. Q. So like at Paragraph 33, you say:
9 "... Based on the above, I would say that
10 the Region is consistently consulting
11 with those experiencing homelessness
12 and their advocates ..."

13 And I am focused mostly on the people
14 experiencing homelessness for the time being. But I
15 am trying to understand how you've come to that
16 conclusion when you're telling me that there was no
17 opportunity for the people in the encampment to
18 provide any kind of input on the plan to close the
19 encampment ---

20 MR. LOKAN: Shannon ---

21 MS. DOWN: --- prior to the by-law.

22 MR. LOKAN: --- to be fair to the witness,
23 you should give him the opportunity to look
24 over Paragraphs 23 to 32 before the one
25 where he says, "Based on the above." So

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1 that he's not ambushed.

2 MS. DOWN: So, I mean, he can look over
3 those, yeah, absolutely.

4 THE WITNESS: Yeah, I believe from ---

5 MS. DOWN: Because I don't see anything in
6 there where it talks about direct
7 consultation with the people who are living
8 at the encampment. There's discussion about
9 Co-creators group.

10 MR. LOKAN: Yeah ---

11 MS. DOWN: The Lived Experience Working
12 Group.

13 MR. LOKAN: Yes.

14 MS. DOWN: Other groups but not -- not
15 specifically the people who are living at
16 the encampment.

17 THE WITNESS: So, you know, I signed an
18 affidavit. I made a series of statements
19 and then at the end of it, I said what I
20 said on Paragraph 33, relative to sections
21 23 to 32, I guess.

22
23 BY MS. DOWN:

24 204. Q. But you used the words, "Those
25 experiencing homelessness," so which like -- which

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1 people experiencing homelessness were you consulting
2 with?

3 A. So I will give an example. The
4 services being offered at 100 Vic as they are, the
5 provision of waste removal, the provision of toilets,
6 the provision of additional lighting, all came from
7 the voices of those who were actually living on that
8 site. And so that is an example that I am referencing
9 in specifically 32.

10 205. Q. Okay, and I am going to suggest that I
11 think there's a difference between responding to
12 complaints about the lack of services and having a
13 consultation. Because I think a consultation is
14 broader, it's not just "we don't have this, can you
15 provide it?" "Sure."

16 It's about the bigger issues, the policy
17 decisions. So that's what I am talking about really
18 when I am talking about consultation. I think -- I
19 mean, maybe we disagree on this but I think a true
20 consultation would be more than responding to specific
21 complaints about the lack of toilets or the lack of
22 garbage bins.

23 A. And I would say that the manner in
24 which the Plan to End Chronic Homelessness was
25 created, the lived expert mechanisms within that, I

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1 would say represent a -- an example of what it looks
2 like to engage with and consult those with lived
3 experience.

4 206. Q. Yeah, and actually in PECH I was
5 reading that yesterday, reviewing it. And it talks a
6 lot about having direct -- doing direct consultation
7 with the people who are experiencing homelessness. So
8 to me that would be the people who are living at 100
9 Victoria Street.

10 So that's what I am trying to understand.
11 Why there wouldn't have been you know, why the Region
12 wouldn't have, say, had a public meeting with the
13 people at the encampment to talk about "here's what
14 we're planning to do."

15 I mean, there were meetings with the Co-
16 creators, there were meeting with Ally (ph). There
17 were meetings, other meetings that talked about it.
18 So it was -- obviously, it was something you felt
19 comfortable engaging with those groups. But it didn't
20 happen with the group at the encampment.

21 A. So, I mean, I guess I'm just going to
22 go back to like my earlier comment. In this specific
23 case, specifically about the development of this by-
24 law, we -- my team and myself, shared what we could,
25 when we could. And I don't know what else to say.

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1 207. Q. Okay, but it wasn't with the group of
2 people who were living at the encampment. So you
3 shared stuff about the plan what you could and when
4 you could with other groups, but not with the people
5 who are living directly at the encampment. Is that
6 ---

7 MR. LOKAN: Which ---

8 MS. DOWN: Is that accurate?

9 MR. LOKAN: Sorry, which other groups are
10 you referring to, Shannon?

11 MS. DOWN: The co-creators, there was the
12 Lived Experience Working Group. There was a
13 number of meetings that took place talking
14 about ---

15 THE WITNESS: And I think we -- I would
16 characterize those conversations as an open
17 acknowledgment that there will come a time
18 when the Region, writ large, will
19 legitimately require that specific piece of
20 land and the encampment at 100 Vic will no
21 longer be available to people. And when and
22 if that time comes, we will share what we
23 can, when we can. And there was -- and we
24 did that as broadly as we could.

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1 BY MS. DOWN:

2 208. Q. Okay, but not broadly enough that it
3 would include the people who are living at the
4 encampment?

5 A. So our outreach workers also had that
6 same knowledge and they may or may not have shared
7 that same messaging on an individual basis with
8 individuals. I have no -- I have no ability to say
9 one way or the other.

10 209. Q. Right, so you can't really claim that
11 that was consultation on those things.

12 A. I don't believe I claimed that. Could
13 you point to me where I claimed that?

14 210. Q. So you seem to be saying that -- I
15 mean, you do talk about the fact that the USWs are
16 engaging with them on a daily basis and that you
17 consider that to be, I think, consultation in this
18 affidavit. Because you say:

19 "... At the most direct level they're
20 engaging with them on a daily basis.
21 Doing so, they directly work with and
22 hear from an unhoused individual about
23 their needs and preferences ..."

24 And so I guess what I'm querying is, if
25 that's -- if that's going to be what's considered

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1 consultation, I would expect there to be some sort of,
2 you know, this is what we've heard, this is the
3 feedback that we're receiving from people about this
4 plan and what, you know, as a group, their needs are.
5 And here's how that's going to influence what we're
6 doing.

7 A. Okay.

8 211. Q. But that doesn't -- I mean, I ---

9 A. All I can say is that ---

10 212. Q. --- haven't heard that that's what
11 happened.

12 A. I can only say I acknowledge what you
13 just stated. And your opinion on what I've got in my
14 affidavit that that's ---

15 213. Q. But you don't -- you don't think that
16 was, you know, a necessary step in this process to
17 consult with them directly about the plan either
18 before or after?

19 MR. LOKAN: Shannon, sorry, it ---

20 MS. DOWN: (Indiscernible) either.

21 MR. LOKAN: --- (indiscernible). This is an
22 objection.

23 THE WITNESS: Okay, thank you.

24 MR. LOKAN: It's the characterization of the
25 evidence that the witness has already given

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1 that I ask you to be accurate with. And he
2 has given evidence on -- in both of his
3 affidavit and in his answers on the
4 mechanism of USWs talking with individual
5 members.

6 And then your question blew right past
7 that and assumed that that hadn't happened
8 or didn't count.

9 MS. DOWN: But he said he's acknowledged
10 that ---

11 MR. LOKAN: If your point is that there was
12 no public meeting at the encampment with
13 residents en masse, sure, ask that factual
14 question. And then make whatever you want
15 with it in the argument of the case.

16 But the -- what you put to him just
17 now, with respect, was not a fair reflection
18 of the evidence he gave either in his
19 affidavit or in answering you just now. But
20 there was (indiscernible) with individual
21 members.

22 MS. DOWN: But he said that he doesn't know
23 whether -- he acknowledged that he doesn't
24 know what was discussed by the USWs with the
25 individual people. So he can't really

P. Sweeney (Cr.-Ex.) - 78

1 confirm that those discussions did take
2 place.

3 MR. LOKAN: Well, no, he confirmed the
4 discussions took place in his affidavit.

5 MS. DOWN: But he doesn't know what they
6 talked about. And there's no record --
7 there's no record of the feedback. So, I
8 mean ---

9 MR. LOKAN: Why don't you ask him if there
10 is any record of feedback?
11

12 BY MS. DOWN:

13 214. Q. Is there any record of the feedback
14 that the USWs would have received from the individuals
15 at the encampment about the plan to close the
16 encampment?

17 A. After the announcement that the by-law
18 was announced.

19 215. Q. Before or during or after?

20 A. So there wouldn't have been a
21 conversation about the specific by-law prior to it
22 being disclosed publicly by anybody. And then
23 afterwards, it's conceivable that there are case notes
24 from USWs on the nature of their conversations with
25 individuals after that.

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1 216. Q. Okay, and were the contents of those
2 case notes provided to you in a rollup of any kind or
3 reported to you in some sort of systematic fashion so
4 that you could receive that feedback? Given that this
5 is potentially a consultation and use that feedback to
6 inform the decision-making?

7 A. So I think, you know, through affidavit
8 evidence, it's clear that there are individuals that
9 feel that there could have been further -- more
10 communication prior to the development of the by-law.
11 I think I've acknowledged that.

12 217. Q. I don't think you answered my question.
13 So you're saying that there could be -- there could be
14 information in the case notes from case workers. So
15 we're talking about consultation. And we're talking
16 about -- you're saying, well, USWs were engaging with
17 people about these issues. And there could be
18 information in the case notes.

19 What I'm asking you is if the Region was
20 treating this as consultation, that would imply that
21 there would have to be some mechanism for receiving
22 that information and pushing it up the chain of
23 command, up towards you on an aggregate basis.

24 Like I'm assuming that -- like if the
25 process is the USWs are going and talking to people

P. Sweeney (Cr.-Ex.) - 80

1 and putting it in their case notes and nobody's
2 reading it, then how is that a meaningful
3 consultation?

4 A. So, Shannon, can I ask you to please
5 point to me where I am on the record as saying that we
6 consulted with residents of 100 Victoria on the by-law
7 and the contents of that by-law before it became
8 public?

9 218. Q. I am not even asking about before but
10 we're talking about even -- so you're saying no, it
11 didn't happen before. I am asking after. So if those
12 conversations happened after the encampments being
13 closed, what do you think about that? What are your,
14 you know, how is this affecting you?

15 All of that is information. Like how is
16 that -- if you're saying those individual
17 conversations -- my understanding is you're trying to
18 say those individual conversations with the USW are
19 the Region consulting with individuals about this plan
20 after the by-law has been passed. Is that fair?

21 A. So I'm -- what I'm saying is the
22 decision to draft and propose a by-law was made
23 independently by Regional Council.

24 Once that became public through the regular
25 process, we were in a position to go and have

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1 conversations with both the community and individuals
2 about what that means for them. Which is why we also
3 included in the by-law a significant length of time
4 and new resources.

5 Because we knew, through consultation and
6 conversations in general with those with lived
7 experience, that if this was going to be the case, we
8 would need both time and additional resources to
9 support the individuals living on the site. That came
10 from our understanding and our conversations with the
11 lived experts and our professional work.

12 219. Q. Okay, so those consultations and
13 conversations with the people who are living at the
14 encampment after the by-law was passed ---

15 A. Shannon, I have not used the word
16 "consultations."

17 220. Q. You just did.

18 A. I said "conversations."

19 221. Q. You actually added the word
20 "consultations" as well. So that's fine. If you're
21 saying it wasn't a consultation, let's agree that
22 there was no consultation with the people at the
23 encampment either individually or as a group before or
24 after the by-law.

25 MR. LOKAN: Shannon, the facts are for the

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1 -- inferences for the facts are for counsel.

2 MS. DOWN: I'm asking about specifically
3 whether something took place. It's not an
4 inference. I'm asking whether the Region
5 consulted with the people at the encampment
6 either individually or as a group, before,
7 during, or after the passage of this by-law.

8 MR. LOKAN: And the answer ---

9 MS. DOWN: It's a simple question. It's a
10 simple question.

11 MR. LOKAN: The answer -- instead of in
12 detail, factually over the last 20, 30
13 minutes and in the affidavit, here's all the
14 things the Region did. And you've asked him
15 to explain what happened. Sure ---

16 MS. DOWN: But he's ---

17 MR. LOKAN: --- ask him (indiscernible)
18 fine.

19 MS. DOWN: --- not answering -- he's not
20 actually answering the questions. Like this
21 is my -- maybe we can go off record for a
22 second.

23 MR. LOKAN: Okay.

24
25 --- OFF THE RECORD

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1 MADAM REPORTER: We're back on.

2 BY MS. DOWN:

3 222. Q. In the notes that the USWs, has there
4 been any attempt to take what's in the USW's notes
5 based on those conversations they've had with the
6 people from the encampment, and provide it to
7 leadership at the Region to provide some information
8 about those conversations?

9 A. The feedback that I've received is
10 based on conversations that our outreach staff had
11 with individuals living at 100 Vic at the time that
12 the by-law came out, was that, generally-speaking, the
13 additional time and the additional resources were what
14 was going to be necessary to support the individuals
15 who are residing at 10 Vic at that time.

16 And so it affirmed the approach that we were
17 taking in that from a community services perspective,
18 we suggested, and ultimately were successful in
19 including in the by-law.

20 223. Q. Was there any other feedback from those
21 conversations that was passed along?

22 A. There was feedback, specific feedback I
23 both think in the affidavits and that I heard relative
24 to the day -- the day that the by-law got posted
25 around -- so that's the specific feedback. But

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1 relative to the housing plans? No.

2 224. Q. The affidavits are not -- I mean, what
3 we're talking about -- we're not talking about our
4 affidavits.

5 A. (Indiscernible).

6 225. Q. We're talking about -- we're talking
7 about -- you're saying USWs have conversations with
8 people and that's forming the feedback that the Region
9 is taking into consideration. So I am asking you
10 about that. Is there any other feedback other than
11 the timing?

12 A. The timing ---

13 226. Q. Was there any other feedback that was
14 received from those conversations with people at the
15 encampment?

16 A. Not specifically that I can recall
17 beyond the affirmation that the additional resources
18 and the additional time were both necessary
19 ingredients that were going to be required to support
20 people.

21 227. Q. Were USWs given specific direction to
22 engage in questions that were related to a, like a
23 consultation-type of process with the people at the
24 encampment?

25 So were they told we want you to go and talk

P. Sweeney (Cr.-Ex.) - 85

1 to your clients and find out how is this affecting
2 you? What do you think about this? What are your
3 thoughts?

4 A. I don't have -- I am not aware of
5 specific direction one way or the other given to -- I
6 don't -- I don't direct the USWs. And so I don't have
7 that information.

8 228. Q. Okay. And presumably then, there
9 wasn't any direction for them to provide that feed --
10 you know, if there wasn't a -- if you're not aware of
11 any direction to them, then I am assuming there wasn't
12 -- you are not aware of any sort of results of any of
13 those other than the very limited part you just told
14 us about, the timing?

15 A. Yeah, the direction -- the job
16 description of the USWs didn't change. The direction
17 to the USWs was to increase their frequency at 100 Vic
18 and to take the time and resources that had been
19 allocated by Council. And to do their best to build
20 those relationships and provide people with
21 opportunities to go to an alternative location.

22 229. Q. Okay. And you state in Paragraph 39 of
23 that -- of your third affidavit ---

24 A. Third again?

25 230. Q. Sorry, 39.

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1 A. Yeah.

2 231. Q. And you say that you -- your view is
3 that:

4 "... The Region did not need to undertake
5 specific consultations with community
6 members ..." ---

7 I'm assuming that means community
8 members not community team members:

9 --- "... to know that there would be
10 opposition to the closure in the
11 encampment ..."

12 A. Yeah, that's what I wrote and signed
13 off on.

14 232. Q. Okay. And so there was, in your view,
15 there was no point to talking about alternatives or
16 options?

17 A. No, but the affidavit is making a very
18 clear statement that I, personally, professionally and
19 my team knew and knows, that there would be opposition
20 in some corners of the community to enclosure of the
21 encampment.

22 233. Q. Okay, would there have been value to
23 having consultations about the way in which it was
24 going to be closed?

25 A. Sorry, would there be value?

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1 234. Q. Yes.

2 A. We had -- I believe there were
3 conversations along the way. Yeah, so sorry, I'm done
4 going down a rabbit hole in my own head.

5 Sorry, what was the question? Can you
6 repeat?

7 235. Q. Would there have been value in having
8 consultations about the way in which the encampment
9 was going to be closed? If not the fact of it, just
10 the way that it was done?

11 A. There are always alternative options
12 available. Again, when it came to this specific by-
13 law, we were limited on what we could and could not
14 say publicly. So we did what we could.

15 236. Q. This might be a good time to take a
16 break because I think the next questions I'm getting
17 into are on a different topic. So maybe we want a
18 break early for lunch. And then when we come back, we
19 can get into the next ---

20 THE WITNESS: Sure.

21 MR. LOKAN: Okay. Off record.

22
23 --- LUNCHEON RECESS

24
25 MADAM REPORTER: We're on, Ms. Down.

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1 BY MS. DOWN:

2 237. Q. Okay, so I am going to turn to your
3 fourth affidavit.

4 A. Yeah.

5 238. Q. I know we're flipping back and forth
6 here but ---

7 A. Okay.

8 239. Q. --- in Paragraph 7, if you want to turn
9 to that.

10 A. Yeah. So this is just the part of your
11 affidavit that it's talking about the evidence from
12 ---

13 A. Yeah.

14 240. Q. --- Leanne Hundt.

15 A. Yeah.

16 241. Q. And just talking about Indigenous
17 funding that the Region does for Indigenous-related
18 housing initiatives.

19 And so you mention in that paragraph that
20 the Region provides housing to Crow Shield Lodge as
21 well as Healing of the Seven Generations for
22 Indigenous-led housing and homelessness initiatives.

23 Can you just confirm that neither of those
24 involve funding for Indigenous-specific emergency
25 shelter beds?

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1 A. That's correct.

2 242. Q. And the funding that's provided to the
3 KW Urban Native Wigwam Program, it does not involve
4 funding for Indigenous-specific emergency shelter beds
5 either?

6 A. That's correct.

7 243. Q. Okay. And the Region as a funder of
8 housing projects you don't operate these projects but
9 you still exert control over how funds are used which
10 would be in accordance with the funding agreements
11 that is tied to those funds?

12 A. Yeah.

13 244. Q. Okay. And so, is it fair to say that
14 it would be within the Region's ability to fund
15 Indigenous-specific emergency shelter beds if it so
16 chose?

17 A. If there was an opportunity and
18 resources to do so, yes. There's nothing preventing
19 that within our mandate.

20 245. Q. Okay. But those currently don't exist?

21 A. Agreed.

22 246. Q. Okay. And outside -- sorry, maybe just
23 another general question. Outside of the
24 organizations that we've discussed, there aren't any
25 other Indigenous-specific emergency shelter services

P. Sweeney (Cr.-Ex.) - 90

1 provided by other organizations?

2 A. In Waterloo Region?

3 247. Q. Yes.

4 A. Not that I am aware of.

5 248. Q. Okay. And now I just want to talk a
6 little bit about options for women and gender-diverse
7 individuals.

8 A. Mm-hmm.

9 249. Q. Sorry, just before we go to that, just
10 one last question. And I think it's acknowledged and
11 uncontroversial to say that the Indigenous population
12 is disproportionally represented in the homelessness
13 population in reference to their numbers in our
14 population in general?

15 A. Yeah, I believe that's true here in our
16 community and elsewhere across the country.

17 250. Q. Okay. Thank you.

18 A. Yeah.

19 251. Q. So in your fourth affidavit you also
20 talk about the Region's options for women and ---

21 A. Yeah.

22 252. Q. --- gender-diverse individuals at
23 Paragraphs 39 and 40.

24 A. Yeah, go ahead.

25 253. Q. So my understanding is that there's two

P. Sweeney (Cr.-Ex.) - 91

1 shelters currently, the YWCA of Cambridge has the 20-
2 bed facility?

3 A. In Cambridge, correct.

4 254. Q. And then there's the former YW
5 Kitchener-Waterloo building on Frederick Street that
6 the Region now owns and operates that is -- has 66
7 beds, is that -- is that number still accurate?

8 A. It is.

9 255. Q. Okay. And you mentioned the other --
10 the Coalition of Muslim Women, a facility, is that
11 open?

12 A. Yes, but I am not sure of their current
13 capacity, Shannon. I would have to go check.

14 256. Q. Okay, can we get an undertaking just to
15 provide that?

16 **UNDERTAKING**

17
18 257. Q. Are there any other specific emergency
19 bed -- or emergency shelter beds that are only for
20 women or gender-diverse individuals in the Region
21 that's not encapsulated in this ---

22 A. No.

23 258. Q. --- tally? Okay, so if that number is
24 accurate in terms of the number of beds that you've
25 indicated, the 28 beds at the Polish and the Muslim

P. Sweeney (Cr.-Ex.) - 92

1 women facility, that would mean that there was a total
2 of 95 beds specifically for women and gender-diverse
3 individuals? If I've done my math correctly.

4 A. Yeah, either in -- up and operating or
5 within -- within the plan, yes.

6 259. Q. Okay.

7 A. Approximately, right.

8 260. Q. Okay, and so I am just going to ask
9 Charlotte just to pull up the October 2024 Point in
10 Time count infographic.

11
12 --- SCREENSHARE

13
14 261. Q. I guess we should make this an exhibit. I
15 know it's in the materials but we'll make it an
16 exhibit, a number or letter we're at. This would be
17 Exhibit B, I think?

18 MR. LOKAN: You can give it a number if you
19 like. It is ---

20 MS. DOWN: Okay.

21 MR. LOKAN: --- in the record.

22 MS. DOWN: Yeah, let's -- so I think we're
23 at 3 or 4, whatever the number is we'll ---

24 MADAM REPORTER: Exhibit 2.

25 MS. DOWN: Okay. So if you can just scroll

P. Sweeney (Cr.-Ex.) - 93

1 down, Charlotte.

2
3 EXHIBIT NO. 2: Point in Time count, October 2024

4
5 BY MS. DOWN:

6 262. Q. So this doesn't give us a specific
7 number for gender identity on this infographic but it
8 says, "34 percent women" and ---

9 A. Yeah.

10 263. Q. --- "2 percent trans, two-spirit and
11 non-binary" out of the group that was measured. So I
12 just -- I did do a little bit of math. So if it's 36
13 percent, it would mean there are approximately 853
14 women at the time of the count, women or gender-
15 diverse individuals at the time of the count that
16 would be 36 percent of the overall number of people
17 experiencing homelessness.

18 So that -- is that -- if my math is correct,
19 is that -- are you in agreement with that assessment?

20 A. Yeah, on the assumption that the pie
21 chart is a representation of the total PiT, then, yes,
22 I guess it's just a math exercise.

23 264. Q. Okay. So given that, there is
24 approximately one bed for every nine women or gender-
25 diverse individuals who is homeless. Though I do

P. Sweeney (Cr.-Ex.) - 94

1 agree that there is a large gap between the number of
2 homeless women and gender-diverse individuals and the
3 options available for them.

4 MR. LOKAN: Shannon, the first part of that
5 builds in assumptions but maybe just ask the
6 large gap question. Because ---

7 MS. DOWN: Okay. Do you agree there ---

8 MR. LOKAN: --- the (indiscernible) there is
9 a way of ---

10 MS. DOWN: --- is a large gap?

11 MR. LOKAN: --- (indiscernible), right?

12 THE WITNESS: Yes, I acknowledge there is a
13 gap ---

14 MS. DOWN: Okay.

15 THE WITNESS: --- within the system which is
16 (indiscernible).

17
18 BY MS. DOWN:

19 265. Q. Okay. And I am just saying that
20 there's limited options available because we really
21 only have -- there's two shelters that are sort of
22 generally available.

23 And then I should point out that my
24 understanding is that the shelter that the Coalition
25 for Muslim Women is specifically targeted towards

P. Sweeney (Cr.-Ex.) - 95

1 women and gender-diverse individuals who are
2 racialized. Is that correct?

3 A. That's correct.

4 266. Q. Okay. And you talk about motels and
5 hotels as an option for women in Paragraphs 44 and 45
6 of your fourth affidavit? I'll just let you turn to
7 that.

8 A. Sorry, 45, yeah. And ---

9 267. Q. Forty-four and 45.

10 A. Forty-four and 45, yes.

11 268. Q. And you say that that's an alternative
12 if someone is not comfortable attending a gender-
13 specific shelter because they've got some additional
14 privacy.

15 Is the Region aware of concerns regarding
16 heightened risks of sex-trafficking and sexual
17 exploitation of women at motels and hotels?

18 A. I am aware of concerns relating to
19 those specific challenges within the hotel/motel
20 system, generally-speaking.

21 269. Q. Okay.

22 A. Like as criticisms of the use of hotels
23 and motels, that is true. I've heard that.

24 270. Q. Okay, so you've heard it as criticism.
25 Has that -- is that something that has been discussed

P. Sweeney (Cr.-Ex.) - 96

1 or addressed in Community and Social Services as a
2 concern or has that been something that's brought up
3 by staff?

4 A. So I -- can you -- you specifically
5 said concerns around trafficking ...?

6 271. Q. And sexual exploitation at motels and
7 hotels.

8 A. So, no, I haven't. Again, I've heard
9 that the concerns that hotels and motels are at risk
10 of offering that. But I don't have a specific
11 instance of trafficking and sex exploitation in
12 specific incidents coming to my attention.

13 272. Q. Okay. I am going to ask that an email
14 be put on the screen. Can you put, Charlotte, the
15 email from Jakara Droog on the screen? So this is an
16 email dated September 18th and it's addressed to you.

17 A. Yeah.

18 273. Q. So, first of all, do you recall
19 receiving this?

20 A. I do.

21 274. Q. Okay, and so can we mark this as
22 Exhibit 3? B? 3?

23 MADAM REPORTER: If it's numbered, it's 3.

24 MS. DOWN: Three.

25 MADAM REPORTER: Yeah.

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1 MS. DOWN: Three. Okay.

2
3 EXHIBIT NO. 3: Email from Jakara Droog

4
5 BY MS. DOWN:

6 275. Q. And so in the first paragraph, I'm
7 focusing mostly on the first paragraph.

8 A. Yeah.

9 276. Q. So Jakara says that:

10 "... There have been numerous reports of
11 women who have been sexually coerced or
12 exploited by motel staff and then with
13 eviction being used as a threat if they
14 refuse ..."

15 And then she specifically points to the
16 Weber Inn and mentions that this was raised to USWs on
17 September 10th and that, according to this email, the
18 response indicated that they were aware of this issue.

19 So first of all, when you received this, did
20 you take any actions with respect to this email?

21 A. Yes, I did. I believe I acknowledged
22 it. I would have to check my email records. To
23 Jakara and I brought it to my staff.

24 277. Q. Okay, and what -- and so when you
25 brought it to your staff, what did you hear back?

P. Sweeney (Cr.-Ex.) - 98

1 A. I heard that there were some concerns
2 raised about the behaviour of an individual at the
3 motels. And my direction at that time was to, at that
4 time, to pause any further intakes into the motel
5 system which I believe we communicated to our system
6 partners of women and fem-identifying.

7 278. Q. Okay. And what about -- was there any
8 actions taken in terms of like the women who were in
9 the motels at that time? Like you weren't bringing in
10 any new people in but what about the people who were
11 already placed there?

12 A. So the question I asked and was told
13 that each of the existing women in the motel system
14 were connected within safety plans, would be put in
15 place for all of them.

16 And if there were any concerns around
17 illegal activity, that they should be directed to the
18 police.

19 279. Q. Okay. And was it just the Weber Inn or
20 was there other -- were there concerns with other
21 motels that were being used by the Region?

22 A. So the specific concern that I believe
23 was raised to me was around the Weber Inn,
24 specifically. But given that the -- my understanding
25 is that the owners of the Weber Inn also own other

P. Sweeney (Cr.-Ex.) - 99

1 motels.

2 And the information I received is that we
3 did not have similar concerns about the other hotels
4 owned by that same organization.

5 280. Q. Okay. And what's the status of this
6 issue currently? Like are there still -- so are those
7 motels being used now? After the pause, did they go
8 back into use or is it still on pause?

9 A. I believe that the motels are still
10 being used and my understanding is that the -- I would
11 have to go back and look to see if any new women have
12 been placed in any of those motels.

13 But I believe the direction is that that is
14 not the case. And that any woman who is being offered
15 a motel, needs to be accompanied with a safety plan
16 and that we are, I believe, not -- not adding offers
17 of motels at that particular one.

18 And I believe there's been a communication
19 with the motel ownership. And I believe that there
20 has been communication with WRPS.

21 281. Q. Okay, and was there direction provided
22 to the USWs with respect to this -- the heightened
23 risk of this sort of issue at the motels?

24 A. Yeah, the direction -- the immediate
25 direction was to cease intakes and to put a safety

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1 plan in place for anybody that was still and to move
2 anybody who was not feeling safe.

3 282. Q. Okay, and could I get an undertaking to
4 get a copy of that direction that was provided to
5 USWs? You can redact any identifying ---

6 A. Sure.

7 283. Q. --- information to make sure that the
8 privacy of the person -- the people involved is
9 protected.

10 MR. LOKAN: Yeah, no problem.

11 **UNDERTAKING**

12 BY MS. DOWN:

13 284. Q. Okay. And has there been any -- so, I
14 guess, as a bigger -- to step back a little bit on
15 this issue. Like is there -- has there been any
16 attempt to like work with -- because I know the police
17 are very involved in sex trafficking work and
18 prevention of sex trafficking.

19 Has there been any collaboration or outreach
20 to the WRPS to talk about this issue on a more
21 systemic basis as opposed to the individualized basis?

22 A. So my understanding, just to clarify is
23 that the concern that was raised was not related to
24 trafficking. That was not brought to my attention.

25 The overall concern around trafficking is

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1 something I believe we are always cognizant of,
2 including at encampments. And if there is ever
3 suggestion or worries or evidence of such a -- such
4 behaviour, they are -- they are immediately escalated
5 to the police.

6 285. Q. Okay. I am going to turn to looking at
7 some of the IHPs. And we're going to put them up on
8 the screen but we've redacted the names just so that
9 we're talking about them just generally, not people-
10 specific information ---

11 A. Sure.

12 286. Q. --- isn't identifiable.

13 MR. LOKAN: Can we go off the record for a
14 moment, Shannon?

15 MS. DOWN: Sure. Sure.

16
17 --- OFF THE RECORD

18
19 MS. DOWN: Okay, so we're back on record.
20 We're just flagging that the next exhibits
21 are going to be potentially -- we'll have a
22 discussion about potentially sealing them or
23 the possibility that they might be sealed.
24 And we'll just flag that as an issue for
25 counsel to determine at a later date.

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1 MR. LOKAN: And together with this section
2 of the transcripts.

3 MS. DOWN: Yes.

4
5 --- SCREENSHARE

6
7 BY MS. DOWN:

8 287. Q. So this is -- do you recognize this
9 document, first of all, Peter, like the general form
10 of the document?

11 A. (Indiscernible).

12 288. Q. Okay, and this is an example of an
13 individualized housing plan that's developed by the
14 Region for people who are experiencing homelessness?

15 A. Yes.

16 289. Q. Okay. And so I just -- you've talked
17 about I think numerous points in your various
18 affidavits. There's references to IHPs as being, you
19 know, really critical pieces of the work that is done
20 by the Region and the USWs in making sure that trying
21 to connect people with housing supports.

22 So just as an example, like in your first
23 affidavit, we look at Paragraph 15. You talk about
24 how in developing an IHP, USWs will consider how an
25 individual initially became unhoused.

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1 Specific factors in their life which have
2 prevented them from accessing housing. The needs and
3 preferences of that individual in accessing housing.
4 And then work with them to try to match them with
5 appropriate housing to the extent possible. That was
6 what you said about them in Paragraph 15.

7 And then you go on and you talk about in
8 Paragraph 17 and 18 of your -- sorry, Paragraph 17
9 that IHPs are best developed over time, weeks or
10 months as the individuals and USWs interact. They're
11 going to build trust and identify the barriers to
12 entry that are specific to that individual. And so
13 it's vital that USWs have the necessary time and
14 access to the unhoused individuals to develop those
15 needs.

16 So when I look at this, I see like in the
17 column to the left there is housing needs, goals and
18 it has sort of three categories, shelter options.
19 Number 2 is a CHAC, the C-H-A-C or the PATH program so
20 that's the Community Housing Access. I can't remember
21 what the last, what "C" stands for. Community Housing
22 Access, something?

23 A. Something.

24 290. Q. And then PATH which is the
25 prioritization list.

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1 A. (Indiscernible).

2 291. Q. And then Number 3, seems to be
3 referring to income -- what kind of income support?

4 A. Yeah.

5 292. Q. And then we see Next Steps. And then
6 progress notes and then there's this checkbox "Housing
7 Progress Steps," 1 to 10.

8 And so for this individual, it seems to be
9 indicating that they've declined shelter options
10 because they have a partner. And so that would, I
11 mean, can you -- someone with a partner, what options
12 would there be for them in terms of shelter options in
13 the Region currently?

14 A. So the current 24/7 shelter system, I'm
15 actually, not sure I'm accurate here. I believe under
16 the current model, partners need to access those
17 systems separately as opposed to being able to access
18 them as a partnership.

19 293. Q. Okay. And in terms of options, like
20 the normal emergency shelter, the co-ed system, there
21 wouldn't be -- like you'd be placed in a -- it's like
22 a ---

23 A. Right.

24 294. Q. --- co-ed congregate setting. So
25 there's no like private rooms for people who are

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1 couples. Is that fair?

2 A. That's currently true.

3 295. Q. Okay, so in this case, this person like
4 they're saying they're declining shelter options
5 because they have a partner.

6 A. Yeah.

7 296. Q. So there's really -- it seems like --
8 I'm assuming that there's no options available for
9 them that would take -- allow them to stay together
10 with their partner. And that might be the reason
11 they've declined it. Although we don't have notes to
12 understand the specifics of that.

13 MR. LOKAN: And just again, Shannon, are you
14 excluding Erbs Road and motels? Or are you
15 going to get to them or ...?

16 MS. DOWN: Well, I mean, it's ---
17

18 BY MS. DOWN:

19 297. Q. So if Erbs Road was an option, would
20 this -- would you expect that to be listed here as an
21 option for the person or if a motel is -- like I'm
22 trying to understand if the USW is working with this
23 person, I don't see any mention of Erbs Road, I don't
24 see any mention of motels. So I -- so would those
25 have been normally provided and written down if they

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1 were being offered?

2 A. So I -- I can say that if there was
3 availability, motels are often an option for couples.
4 It's one of the -- it's a flexible part of the motel
5 program that we have.

6 Erbs Road, couples are permitted but they
7 have their own cabin so they're not -- they don't
8 sleep in the same cabins. Well, sorry. Let me
9 rephrase that. They are offered two cabins.

10 298. Q. Okay. But if those were options, would
11 those be included in the IHP? Like would that be
12 something that would be, you know, indicated by a USW
13 in the IHP that Erbs Road is being offered, a motel is
14 being offered? That would usually be encapsulated in
15 this document, would it not?

16 A. Again, this is a very specific one, so
17 I don't have insight onto the conversation between
18 Nichole and whoever this person is. But I can say
19 definitively that where available, our USWs have a
20 suite of options to offer on any given day.

21 299. Q. Okay, and maybe let's just step back.
22 So the purpose of this IHP is to keep a record of what
23 those conversations are between -- I understand it's
24 not case notes but it's the plan, right? Like it's
25 part of the housing plan. So like where is this

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1 person going to go?

2 So I would assume that those housing options
3 -- like one of the purposes of this is to make sure
4 that all the housing options that have been explored
5 or are a potential are captured here?

6 A. So that's the intention of the IHP as a
7 part of a -- the broader case management.

8 300. Q. Mm-hmm. Okay, so if it's not here,
9 does that suggest to you that it's not an option for
10 these people? Because if it was an option, wouldn't
11 it -- shouldn't it be listed here on the IHP?

12 A. Without, you know, actually having a
13 conversation with Nichole about this particular case,
14 I can't assume why something is or is not included on
15 the IHP.

16 301. Q. Okay. And we don't know when that --
17 when those shelter options were declined, like when it
18 was offered or when it was declined. And I don't see
19 any progress notes, so we don't know whether that was
20 like revisited at some point.

21 Because I think we got these documents in
22 September, at the end of September. So it's hard to
23 tell from this, you know, is this a one-conversation
24 or was it multiple conversations. Is that fair to
25 say?

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1 A. Yeah, I think it's indetermined or
2 undetermined, you know, how many conversations had
3 here. I don't see an indication of how many
4 conversations on this ---

5 302. Q. Okay.

6 A. --- (indiscernible) one. So I can't
7 guess. I don't know.

8 303. Q. Okay. And it says that they had
9 already completed an application for community housing
10 back in 2021 and a PATH intake. It doesn't say when
11 and they were just waiting on the housing list, and
12 that they're getting ODSP.

13 It doesn't -- like I don't see here where
14 it's sort of giving me a sense of what the barriers
15 are for this person to get housing. Or like some of
16 the things you're talking about, identifying the
17 barriers to entry that are specific to that
18 individual, or the use of the IHPs recognize that
19 individuals might require staged approaches. It's not
20 talking about that.

21 And I understand that each one will be
22 different but it just -- this seems very sparse.

23 A. Yeah, my affidavit refers to what the
24 IHPs can be used for and they're not all going to look
25 the same. And it's entirely dependent on the nature

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1 of the conversation that an individual has with the
2 USWs, and they're willingness to share.

3 304. Q. Right. And so then this checkbox
4 towards housing progress, it looks like check, step 1,
5 step 2 and 3 were completed. And then step 4.

6 So like sort of the starting points of an
7 attempt to get housing but kind of -- at some point,
8 it just -- it stops. So maybe this work is
9 continuing. So if we -- we do expect that if we got
10 an updated IHP for this individual, that it would have
11 some more information filled in on it?

12 A. My assumption would be if Nichole in
13 this particular case -- if this particular person was
14 still engaging with, in this particular case, Nichole,
15 and there was new information shared that would inform
16 a possible housing plan, then my assumption is that
17 this would be updated in some way, shape or form. But
18 again, without knowing the specifics of this
19 relationship, I can't -- I can't make ---

20 305. Q. Okay.

21 A. --- a prediction on this particular
22 file.

23 306. Q. Okay. And being on the housing
24 waitlist is a long process. So waiting on -- if
25 you're on that housing list, it can -- is it fair to

P. Sweeney (Cr.-Ex.) - 110

1 say that it can take many years to gain housing
2 through that list?

3 A. Yes.

4 307. Q. If you're just -- if you're not in a
5 priority status?

6 A. Yeah, that's unfortunately true.

7 308. Q. Okay. If we can look at -- turn to the
8 next one, Charlotte?

9
10 --- SCREENSHARE

11
12 So this one has a little more information.
13 It seems to be slightly further along. Again, it
14 talks about being on the wait list, that this person
15 is on OW. Under the progress notes, under options, it
16 says:

17 "... No affordable housing due to income
18 level of OW ..."

19 So, I mean, I think -- is this -- this
20 is pretty typical, right? Of someone who if they're
21 on OW, they're not going to -- they're not likely to
22 find community housing options because of the low-
23 income level that OW provides for housing?

24 A. Oh, yeah, I think we know that the OW
25 rates are a challenge. And without access to RGI or

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1 other supplements, it's very difficult, if, frankly,
2 it's very difficult for people who are on OW to find
3 market rent.

4 309. Q. Okay, so I guess the point being that
5 like an IHP doesn't really solve that issue of like if
6 you're extremely low income, your housing options are
7 going to be very limited. So, you know, it's all very
8 well and good to have a plan but if it's not ---

9 MR. LOKAN: Shannon, this particular case,
10 it looks like a person might be over 65
11 because of the records to CPP and OAS and
12 maybe Guaranteed Income Supplement. There
13 might be other sources.

14 If the question is general, it can be
15 put generally but ---

16 MS. DOWN: Mm-hmm.

17 MR. LOKAN: --- this particular one, there
18 is a little more information on the form.

19 MS. DOWN: Sure, but it's saying they're --
20 right now they're on OW so their options at
21 this point like, you know, it's not -- it's
22 not clear if they're a), if they're
23 eligible for a CPP and OAS, they may or may
24 not be. Not everybody is, right?

25

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1 BY MS. DOWN:

2 310. Q. So if we can switch to the next one.
3 And again, before we leave this one, it just looks
4 like steps 1, 2 -- preliminary and 1 and 2 have been
5 filled out and step 4 but none of the rest.

6 So again, I am assuming that at some point,
7 there may be some other steps. Like if we were to
8 check in a month or two for this person that the IHP
9 would be -- would be different.

10 A. It would be different if there was
11 different information shared.

12 311. Q. We'll just look at one last one and
13 then we'll move on.

14
15 --- SCREEN SHARE
16

17 312. Q. So again, this one under next steps,
18 they've taken a space at the Weber Inn, declined other
19 shelter options because they have a partner and a dog.
20 So again, just sort of reiterating that it's
21 challenging for people who have partners or pets to
22 find spaces. Is that fair to say?

23 A. It is.

24 313. Q. Okay. Do you know which of the shelter
25 options actually accept people with pets?

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1 A. I don't, actually. I can find out.

2 314. Q. Okay, if we can have an undertaking ---

3 A. Yes.

4 315. Q. --- to provide that, that would be
5 great.

6 **UNDERTAKING**

7 A. Erbs Road, for sure.

8 316. Q. Okay.

9 A. And I can give you the other ones. I'd
10 have to -- I don't want to give you wrong information,
11 Shannon.

12 317. Q. Fair enough. And then again, this
13 person has applied for community housing back in 2017
14 and is waiting on the housing waitlist and has
15 completed PATH.

16 So again, it doesn't seem like there's a lot
17 of specifics available for this person in terms of
18 what, you know, what that next step is to reaffirm
19 non-permanent housing which the Weber Inn would be, to
20 some form of permanent housing. Is that fair to say?

21 A. Yeah, it's a challenge. Yes.

22 318. Q. Okay. Okay, so, I mean, I guess, you
23 know, when I look at these IHPs the overwhelming
24 impression I get from reviewing all the ones that we
25 had for our clients, is that while in theory the IHPs

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1 are a good idea, the reality is that a lot of these
2 people have very few or any -- if any, options because
3 of their low income and the lack of affordable
4 housing. Is that fair to say?

5 A. Well, I think what you're seeing is an
6 example obviously of somebody whose option was a
7 motel. The IHPs are also a tool that allow us to
8 support individuals off the street and into inside
9 into safer options. And we're doing that on a regular
10 basis into the system that we have.

11 319. Q. Right. But the goal would be
12 eventually to get people hopefully into permanent
13 housing, not just into some form of shelter and non-
14 permanent housing.

15 So I guess that's where I am -- it seems
16 like the IHPs, like are aspirational if not realistic,
17 is that fair to say?

18 A. They, to the best of our ability,
19 identify what a plan could look like and we are always
20 subject to resource constraints and availability.

21 320. Q. Okay. But the process of filling out
22 an IHP isn't necessarily going to -- it may or may not
23 move you any closer to getting housing if the barrier
24 is your income. It's just too low.

25 A. No, the IHP in and of itself isn't --

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1 is not the lever to access housing. With or without
2 one, it's a tool that we use to support individuals
3 and engage with folks.

4 321. Q. Okay. I want to turn to the issue of
5 Housing First which you talk about I think in your
6 fourth affidavit at Paragraph 21.

7 A. Sure.

8 MS. SCHIUTEMA: Can I interrupt for one sec.
9 I don't know if you made those exhibits and
10 I think I might have missed the conversation
11 at the beginning about if you wanted them
12 made exhibits.

13 MS. DOWN: Yes, I do. But we did have a
14 conversation about it. We're going to make
15 them exhibits but were -- the possibility
16 that they might be sealed because we just
17 need to have the conversation about the
18 privacy issues.

19 MR. LOKAN: So that would be 4, 5 and 6 or
20 do you want to do them as a bundle?

21 MS. DOWN: We could just do them as a
22 bundle, I think it's No. 4.

23
24 EXHIBIT NO. 4: IHPs, bundle
25

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1 BY MS. DOWN:

2 322. Q. So if you turn to your fourth
3 affidavit, starting at page -- sorry, Paragraph 21.

4 A. Yeah.

5 323. Q. You sort of -- like affirming that the
6 Region's committed to housing first. And maybe it's
7 just helpful for us just to have a brief, you know,
8 discussion about what that means.

9 And you mention in that first paragraph,
10 that it's contrasted with the Housing Readiness model
11 and so Housing First and I'm just -- I am going to
12 speak in just simple, general terms.

13 A. Right.

14 324. Q. Housing First is just a philosophy that
15 people just -- people need to be housed. That there
16 shouldn't be any -- even if you have mental health
17 issues, if you have addiction issues.

18 If, you know, you're -- I don't know, you
19 have whatever your issues, that housing should be
20 available to everybody. Because it's the method
21 through most people -- through which most people would
22 gain stability in their lives and be able to address
23 those things.

24 Is that -- is that your ---

25 A. That's ---

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1 325. Q. --- understanding?

2 A. --- my understanding of Housing First
3 as well.

4 326. Q. Okay. And Housing Readiness model is
5 sort of more like you have to meet some sort of
6 criteria in order to qualify for housing?

7 A. Yes.

8 327. Q. Some intermediate steps?

9 A. Yeah. Yeah, yes, that's my
10 understanding as well. Specifically as it relates to
11 that response here in this affidavit.

12 328. Q. Okay. And in Paragraph 23, you say
13 like you didn't -- the Region does not employ a
14 Housing Readiness approach and it's committed to
15 Housing First model. And that's reflected in the Plan
16 to End Chronic Homelessness?

17 A. Mm-hmm.

18 329. Q. And that there's various references in
19 the Plan to End Chronic Homelessness as Housing First
20 is the preferred approach.

21 So I just -- I want to clarify because
22 there's a few statements from your first affidavit
23 that I think are -- contradict that.

24 A. Okay.

25 330. Q. And I just want to go through those

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1 just to clarify.

2 A. Okay. So, sorry, we're going to go
3 back to my first one?

4 331. Q. Yeah, so if you can just pull that one
5 out.

6 A. Okay, go ahead.

7 332. Q. So if you look at Paragraph 18.

8 A. Yeah.

9 333. Q. It says that:

10 "... Individuals experiencing
11 homelessness commonly required staged
12 approaches to reintegration into more
13 permanent forms of housing. And these
14 staged approaches commonly rely on the
15 individual also receiving concurrent
16 care and treatment from health
17 providers, addiction specialists and
18 social workers ..."

19 A. Yeah.

20 334. Q. So when I read that, it seems to me
21 that that's suggesting that people need to get
22 services or need to do something before they're ready
23 for housing.

24 A. No, I understand where you're coming
25 at. I don't see that as a contradiction. This is

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1 specific -- so I'll go back to your earlier comment.
2 Housing First is a principled approach, an
3 aspirational approach.

4 And what we're -- what I am acknowledging in
5 affidavit No. 1, point No. 18, is that we know through
6 experience that some individuals require additional
7 social, health, mental supports and that can be
8 offered in a supportive housing model, as opposed to a
9 permanent tenancy-based affordable housing model.

10 And so all we're saying is that we recognize
11 that there are individuals who have needs, significant
12 needs, that would likely preclude either like jumping
13 from, an example, living on the street for potentially
14 a long time, straight into an independent affordable
15 housing or an independent permanent housing situation
16 without any supports.

17 335. Q. Could they not be put into permanent
18 housing with supports?

19 A. Certainly, if available. I mean, I
20 think that's -- I mean, we would -- I would call that
21 supportive housing.

22 336. Q. Okay, but that's more about the system
23 than it is about the individual. I guess that's just
24 a distinction I'm making. I think Housing First says
25 that individuals do not need interventions before they

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1 can be housed.

2 A. Hmm.

3 337. Q. And the system -- like what I'm
4 contrasting that is, the system doesn't have
5 supportive housing so we're going to put you in some
6 other non-permanent housing. Because it's just not
7 available as opposed to you require it.

8 A. So I've -- you've kind of lost me on
9 the journey here. I think we agree on Housing First.
10 And I believe -- but I am not sure what -- you framed
11 it as a contradiction. Can you just be really clear
12 so I can ---

13 338. Q. Just that ---

14 A. --- (indiscernible). Because we know
15 ---

16 339. Q. People require ---

17 A. --- (indiscernible) for supports. We
18 know ---

19 340. Q. Right, but that doesn't mean they can't
20 be housed, I guess is what I am saying. They may --
21 they need supports but they need housing.

22 A. I -- yes, I'm not -- I don't think I'm
23 saying anything contradictory.

24 341. Q. Okay, because this says:

25 "... They require staged approaches to

P. Sweeney (Cr.-Ex.) - 121

1 reintegration ..."

2 So that seems to say you've got to go
3 through this step before you can get to this step,
4 before you can get to this step.

5 A. Mmm.

6 342. Q. The "staged approach," I am trying to
7 understand what that means.

8 A. Well, I think it's -- I mean, I'll
9 compare it to a hospital stay. Some people require a
10 stay at intensive care unit before they can go to the
11 general ward, before they can be discharged, medically
12 and clinically. We know that there are some
13 individual cases that present that by their own case,
14 some people require very intensive supports which is
15 why we try to offer them what they need. It's not
16 about a forced ladderling.

17 343. Q. So if someone needs supports, I'm
18 saying why do they need the staged approach, why can't
19 they be housed with supports?

20 A. I think we're saying the same thing.
21 That would -- to me, that would be -- that would be an
22 example of staging. But ---

23 344. Q. Isn't that just housing them, though?

24 A. I think housing people who have ---

25 345. Q. Like what is a "stage," I guess?

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1 What's the first stage?

2 A. It's recognizing that -- it's mostly
3 around, in some cases if there's not permanent housing
4 available right off the bat, but we have a place at a
5 motel that is inside where they can lock the door and
6 have a shower and have a bed, that is an example of a
7 staged approach.

8 It's not required, they don't have to say,
9 "yes." But that would be a stage, that's why it's a
10 continuum.

11 346. Q. Okay, but what I am suggesting to you
12 is what you're calling a "staged approach" is really
13 about the unavailability of permanent housing. So
14 we're going to provide you with something other than
15 that because that's all we have.

16 A. Yes, like we're agreeing on that,
17 Shannon.

18 347. Q. Okay. But that's different than saying
19 someone needs to -- so I am just going to -- in
20 Paragraph 19 ---

21 A. Okay.

22 348. Q. You say:

23 "... For example, a first step can be to
24 assist an individual who is living
25 rough including in an encampment, into

P. Sweeney (Cr.-Ex.) - 123

1 the Region's shelter system and then
2 from there into more forms of housing
3 ..."

4 So I am just trying to understand. Do
5 they need to go into the shelter system before they
6 can go into other forms of housing?

7 A. No, that's a case of managing and
8 supporting people within a system that's constantly in
9 flux. And so we're ---

10 349. Q. Okay.

11 A. We're offering people what we can based
12 on their needs and what we have available.

13 350. Q. So you're not saying that anyone needs
14 to go into either a shelter or motels before they can
15 be housed?

16 A. Like clinically?

17 351. Q. Yes.

18 A. No. I am not saying that.

19 352. Q. Okay. So that -- I agree with you
20 then. That is a Housing First. Because if you were
21 saying that first of all you need to like stabilize in
22 transitional housing or a shelter or a hotel, that's
23 not -- that is not Housing First?

24 A. I agree.

25 353. Q. Okay.

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1 A. Yeah, we're not (indiscernible).

2 354. Q. We are in agreement.

3 A. Okay. Takes us a while, sorry. I am
4 not that thick.

5 355. Q. I just -- so I am going to jump to
6 Paragraph 38 of your affidavit.

7 A. No. 1?

8 356. Q. Yeah.

9 A. Okay. Go ahead, sorry, 38?

10 357. Q. Yeah, I think this is helpful. This is
11 clarifying. So it says:

12 "... We expect these housing plans for
13 some individuals will be staged meaning
14 they may require several supportive
15 steps before being able to live
16 independently ..."

17 A. Okay.

18 358. Q. "... My team is acutely aware that not
19 every person is ready to transition
20 into long-term housing for a variety of
21 reasons ..."

22 A. Mm-hmm.

23 359. Q. So I am trying to understand that
24 statement in the context of Housing First.

25 A. So again, I think we agree that we

P. Sweeney (Cr.-Ex.) - 125

1 don't force people into a staging approach that is not
2 consistent with their needs.

3 We recognize that some people have a variety
4 of needs, clinically, socially, emotionally and where
5 we have resources to support them with that, we do so.
6 It's why we have supportive housing as an example.

7 360. Q. Okay, but if ---

8 A. It's not requiring people to go through
9 a laddering exercise. So to me, that is consistent
10 with Housing First.

11 361. Q. Okay, because my -- like when I read
12 that, it seems like it is requiring people to
13 transition through a number of stages before they can
14 be housed.

15 A. No, it says, "May require several
16 supportive steps." So to me, it's a clinical
17 approach. Their clinical condition or their social
18 condition may require a series of interventions that
19 we have available to us and sometimes we don't. And
20 we provide that where we can.

21 362. Q. But if they -- but if they need
22 supportive -- so supportive housing, just to be clear.
23 Supportive housing is permanent housing as opposed to
24 transitional housing and motels or (indiscernible).

25 A. Okay, fair enough. Yeah.

P. Sweeney (Cr.-Ex.) - 126

1 363. Q. So if they needed supportive housing,
2 that would be like the first and only step they need
3 to make, is that -- they don't need to go into a motel
4 first, they don't need to be in a shelter first. They
5 can go into supportive housing.

6 If supportive housing isn't available, like
7 if it's not an option because it's full, then I
8 understand you might place them in a motel. But it's
9 not that there's steps that they need to take before
10 they get to supportive housing, is that fair to say?

11 A. That's accurate.

12 364. Q. Okay. Because it's a bit confusing the
13 way you have it written there. It sounds like there's
14 ---

15 A. I've never written affidavits ---

16 365. Q. -- supportive steps before they are
17 being able to live independently. I mean, it's
18 usually -- people are usually, you know, they can live
19 independently or they need supportive housing or they
20 live independently maybe with some supports. But
21 there's no reason for them not to be housed under a
22 Housing First model.

23 A. I agree.

24 366. Q. Okay.

25 A. And I apologize for any confusion in

P. Sweeney (Cr.-Ex.) - 127

1 the first ever affidavit I've ever written.

2 367. Q. That's okay, I just want to make it --
3 I think it's an important step. Because, you know, if
4 you're reading your affidavit and the impression is
5 we're not providing housing to people, we're providing
6 them -- putting them in a motel or into emergency
7 shelters because we feel that that's a necessary step
8 for them before they can be housed.

9 I think that's a very different -- that's a
10 very different approach than a Housing First approach
11 which says anyone can be housed. They might need
12 supportive housing but anyone can be housed. And then
13 all those other things can be addressed once they are
14 housed.

15 A. So let me, for the record, agree with
16 that statement.

17 368. Q. Okay. Thank you. And so in 84,
18 Paragraph 84, it says:

19 "... IHPs also recognize that not all
20 individuals are ready to move into
21 permanent housing. For many, accessing
22 a shelter, motel room or other
23 transitional living arrangement, is a
24 necessary first step to obtaining the
25 stability to move into a more long-term

P. Sweeney (Cr.-Ex.) - 128

1 housing arrangement ..."

2 I think after what we've talked about,
3 you would disagree with that statement in 84?

4 A. No, what I'm -- no, I wouldn't disagree
5 with it. I am not being contradictory; I'm clarifying
6 that I agree that these are not mandated required
7 steps. It's an attempt to recognize that individuals
8 have unique needs. And some individuals will benefit
9 from some sort of support, whatever we have available
10 to us prior to.

11 So to be clear, if the alternative is a
12 person is outside, and we don't have supportive
13 housing, we believe that offering them a motel, if
14 they so choose, where they can come inside and lock
15 their door, is, in this specific case, a necessary
16 first step for them to consider. Because I don't have
17 anything else to offer. So (indiscernible) ---

18 369. Q. Great. But that's not what this
19 paragraph says so, I mean, if we're being accurate, it
20 says:

21 "... Not all individuals are ready to
22 move into permanent housing ..."

23 So it's not saying we don't have
24 permanent housing for people so therefore it's
25 necessary to put them into -- it's saying they need

P. Sweeney (Cr.-Ex.) - 129

1 stability and they need -- they're not ready for
2 permanent housing.

3 A. Some people clinically are not ready
4 for permanent housing without supports.

5 370. Q. Okay, but that's supportive housing.

6 A. Fair enough.

7 371. Q. So you're saying -- so some people are
8 not ready for supportive housing?

9 A. No, I am not saying that.

10 372. Q. Okay, so I just want to make it clear.

11 Like this is confusing, then, from a Housing First
12 perspective. Because you're saying individuals are
13 not ready to move into permanent housing.

14 You're not saying like, I mean, Housing
15 First principle says, yes, they are. If we don't have
16 supportive housing, then we can't give them supportive
17 housing. That's not their fault. It's not about
18 their readiness. It's about the system's lack of
19 resources.

20 A. Yes, so I am not trying to be
21 confusing.

22 373. Q. Okay, I just -- would you agree that
23 this Paragraph 84 seems to be muddying the waters on
24 the Housing First?

25 A. Well, I would say it's muddying the

P. Sweeney (Cr.-Ex.) - 130

1 waters between you and me.

2 374. Q. Okay, so you think that 84 encapsulates
3 what the Region sees Housing First does?

4 A. I am reading it again:

5 "... IHPs also recognize that not all
6 individuals are ready to move into
7 permanent housing ..."

8 That could be edited to say, "permanent
9 housing without supports." I'll concede that.

10 375. Q. Okay.

11 A. And I believe that's where we're
12 muddying the waters.

13 376. Q. And then so for this second sentence:

14 "... For many, accessing a shelter, a
15 motel room or other transitional living
16 arrangement, is a necessary first step
17 ..."

18 Is it a necessary first step for them?

19 A. It's ---

20 377. Q. If there was supportive housing
21 available?

22 A. It's a necessary first step in a system
23 like ours which is constrained by availability.

24 378. Q. Okay, so that's an important qualifier

25 ---

P. Sweeney (Cr.-Ex.) - 131

1 A. Okay.

2 379. Q. --- that's not in that paragraph.

3 A. I concede that, sure.

4 380. Q. Because this seems to be suggesting we
5 can't put you in permanent housing. You're not ready
6 for it yet. You need to go into a motel or other
7 transitional to get stable before we can put you into
8 permanent housing.

9 And I think we've agreed that that isn't
10 Housing First and you've said that the Region is
11 committed to Housing First.

12 A. Yeah, I'll concede that.

13 381. Q. Okay. So in your third affidavit ---

14 A. Okay.

15 382. Q. Fourth.

16 A. Fourth.

17 383. Q. Sorry.

18 A. Yeah, no, okay.

19 384. Q. So at Paragraph 27, so you talk about
20 your operating options for individuals experiencing
21 homelessness that are not long-term, that fact alone
22 doesn't mean that the Region isn't committed to a
23 Housing First approach.

24 Indeed, the Region's made it so the
25 encampment would be inconsistent with the Housing

P. Sweeney (Cr.-Ex.) - 132

1 First approach from the sole fact that options other
2 than long-term arrangements are seen as being
3 incompatible.

4 So I think -- I mean, I think you're trying
5 to -- I don't think the criticism of those sections
6 that are -- where there seem to be difference of
7 opinion. It wasn't that there wasn't the existence of
8 shelters or motels or other non-permanent, that the
9 Region uses those options, it was just a suggestion
10 that those options are a necessary first step as
11 opposed to just part of a system where there isn't
12 necessarily direct entry into permanent housing. Or a
13 direct entry into permanent supportive housing.

14 A. Are you clarifying what the Gaetz
15 (indiscernible) ---

16 385. Q. So do you agree -- yeah, so I mean that
17 was ---

18 A. Sorry, there was a lot there. I was
19 waiting (indiscernible) ---

20 386. Q. I don't think the Gaetz -- I don't
21 think the Gaetz' affidavit is saying there's anything
22 wrong with shelters, motels, non-permanent housing.

23 A. Right.

24 387. Q. It's the suggestion that people are --
25 need that before they can be permanently housed either

P. Sweeney (Cr.-Ex.) - 133

1 in supportive or non-supportive housing.

2 A. Right, and I would say I'm not trying
3 to the make the point that there is a needed,
4 required, mandated step for people to access permanent
5 housing.

6 388. Q. Okay, and in fact, in an ideal world,
7 where we were at functional zero, we wouldn't have the
8 need for any emergency shelter system or very minimal
9 one. And people would be directly housed either in
10 supportive housing or regular housing.

11 A. I hope we can toast that day.

12 389. Q. I hope so, too. So have you had any --
13 I'm actually getting close to the end so we may end up
14 finishing up a little bit early.

15 Have you had any updates? Okay, you're on
16 the -- let's go back. You're on the leadership team
17 for the Region when it comes to this issue with the
18 encampment?

19 A. Like, yeah, I am on the leadership team
20 at the Region, yes. Yeah.

21 390. Q. Okay. And so have you been made aware
22 of any updates to the Metrolinx timelines as -- have
23 there been any communications about that?

24 A. Not that I am aware of. My
25 understanding is the -- the latest documentation

P. Sweeney (Cr.-Ex.) - 134

1 remains the April 1st.

2 391. Q. Okay. So you haven't had any
3 conversations or meetings which have changed that?

4 A. No.

5 MR. LOKAN: Shannon, I am going to suggest
6 that that might be an area that's better for
7 Mr. Spooner in January.

8 MS. DOWN: Yeah, and we'll focus on that
9 with him but I just wanted to ask Mr.
10 Sweeney as well since I have him here.

11 Can we just take a short break, like
12 ten minutes and then I'll just make sure
13 that I haven't missed any of my questions.

14 THE WITNESS: Sure.

15 MS. DOWN: I anticipate that we can -- we'll
16 come back for a pretty short amount of time.

17 THE WITNESS: Okay.

18 MS. DOWN: Maybe reconvene at five-to?

19 THE WITNESS: Yeah.

20 MS. DOWN: Thanks.

21
22 --- BRIEF RECESS

23
24 MS. DOWN: Okay, we're back. Sorry for the
25 delay.

P. Sweeney (Cr.-Ex.) - 135

1 MR. LOKAN: No problem.

2 MS. DOWN: For keeping you waiting, Peter.

3 Thank you for your patience.

4 THE WITNESS: No worries.

5 MS. DOWN: I just have a couple of quick
6 questions just to clarify a couple of
7 things.

8 THE WITNESS: Sure.

9
10 BY MS. DOWN:

11 392. Q. One quick thing, and it relates to our
12 discussion that we just had around Housing First and
13 housing -- or versus Housing Readiness.

14 And I think you said something about
15 sometimes there's a clinical approach may require a
16 series of interventions for a particular individual.

17 I am just trying to understand what -- can
18 you provide some clarity about what that means?

19 A. Oh, okay. Yeah, fair enough. I used
20 the clinical just from my background in health care.
21 It just means that we understand that when I say it
22 like that, that individuals will often require some
23 help and social supports. And had those health and
24 social needs that wrap-around supports are required.
25 That was all I meant.

P. Sweeney (Cr.-Ex.) - 136

1 393. Q. Okay, "required" like before they're
2 housed, is that (indiscernible) or just ---

3 A. In addition.

4 394. Q. --- as part of housing?

5 A. Yeah, that's correct.

6 395. Q. Okay, so sort of concurrently with
7 their being housed?

8 A. Yes.

9 396. Q. Okay.

10 A. Yes.

11 397. Q. Okay, so it's not a -- is you're going
12 to affirm me, it's not a requirement for them to get
13 those interventions before they're housed?

14 A. That's correct.

15 398. Q. It just may be something that goes
16 hand-in-hand with housing them?

17 A. That's ---

18 399. Q. Providing them some supports or, yeah,
19 services.

20 A. Yeah. Okay.

21 400. Q. Okay. And then in terms of the IHPs
22 and developing them, have there been -- I mean,
23 obviously, there's some challenges with doing that
24 with someone who has serious mental health issues who
25 may not have capacity to make decisions.

P. Sweeney (Cr.-Ex.) - 137

1 How is the Region approaching those
2 situations?

3 A. So the -- the outreach workers or USWs
4 are all professionally-designated and, you know, they
5 have the training to support. And, you know, I don't
6 have specific examples but my -- my understanding is
7 that when an outreach worker would interact with
8 somebody that was either displaying or had documented
9 challenges around capacity, that appropriate steps
10 would be taken to make sure that we're gaining
11 consent, if we're looking for consent.

12 Yeah, these are trained professionals who do
13 their best in those challenging situations.

14 401. Q. Okay, so would that involve like
15 getting family members or a substitute decision-maker
16 is involved or ---

17 A. It might. It might, Shannon. I don't
18 know, I'd have to -- frankly, I'd have to ask a very
19 specific question ---

20 402. Q. Okay.

21 A. --- about that. But my assumption is
22 those things would all be on the table.

23 403. Q. Or working with the public guardian and
24 trustee?

25 A. In some cases, probably, yeah.

P. Sweeney (Cr.-Ex.) - 138

1 404. Q. Okay.

2 A. Yeah.

3 405. Q. And is that -- maybe just an
4 undertaking to find out if that's part of the process
5 for working with people with mental health issues
6 where capacity is ---

7 A. Yeah.

8 406. Q. --- a concern.

9 A. Okay.

10 **UNDERTAKING**

11

12 407. Q. And then -- oh, I just wanted to -- can
13 I get an undertaking just to confirm that since --
14 specifically -- of the communication that you had with
15 your -- or the information that came from your staff
16 about Weber Inn, that there had been no women or
17 gender-diverse individuals placed at that facility
18 since that time.

19 A. Yeah, I will -- we can do an
20 undertaking. I don't know, I'll look to my -- to
21 Andrew for direction on how best to address that.

22 MR. LOKAN: So since the -- you say the
23 Weber Hotel incident, can we take the date
24 of Jakara Droog's email or ---

25 MS. DOWN: Well, I don't know -- I don't

P. Sweeney (Cr.-Ex.) - 139

1 know whether that email was the first time
2 that it came to Peter's attention or because
3 you mention ---
4

5 BY MS. DOWN:

6 408. Q. Was it after -- so I guess, was that
7 the first time that that issue came to your attention?

8 A. Yes, and I responded to her.

9 409. Q. Okay, since that time that email was
10 sent which was -- I can't really -- I don't have it in
11 front of me right now but I think

12 MS. CAHILL: September 18th ---

13 MS. DOWN: September 18th. Just an
14 undertaking to confirm that no women or
15 gender-diverse individuals have been placed
16 at the Weber Inn since that time.

17 MR. LOKAN: I assume you mean, self-
18 identified as gender-diverse individuals?

19 MS. DOWN: Yes.

20 MR. LOKAN: What I think makes sense, is
21 yes, we'll give that undertaking but in the
22 event that anyone has, we'll accompany with
23 an explanation.

24 **UNDERTAKING**
25

P. Sweeney (Re-Ex.) - 140

1 MS. DOWN: Okay. But just whatever
2 information you can provide with respect to
3 that.

4 MR. LOKAN: Okay.

5 MS. DOWN: Those are my questions.

6 MR. LOKAN: So I have a little bit in re-
7 examination.

8
9 RE-EXAMINATION BY MR. LOKAN:

10 410. Q. Peter, you were asked by Shannon a
11 number of questions about where do people go or where
12 could people go or where -- what is available on a
13 closure of 100 Vic.

14 As a factual matter, are there other
15 encampments in the Region?

16 A. There are other encampments in the
17 Region. I don't have the exact number.

18 411. Q. Are you able to give any kind of a
19 range?

20 A. No, I'd have to ask. Again, it's a
21 pretty fluid situation. I -- my USW staff would be
22 able to give me specifics, what they know of.

23 412. Q. Okay. You were asked about a scenario
24 where an unhoused person is placed in a motel and it
25 doesn't work out. And you talk about the engagement

P. Sweeney (Re-Ex.) - 141

1 that might follow that.

2 I just want you to tell us, not in that
3 situation, but somebody is in a motel for a while.
4 Are there other kinds of housing that people move onto
5 after a motel stay?

6 A. Yes, certainly. So a motel could be a
7 stop in the continuum. There are -- there are other
8 options including transitional congregate settings,
9 traditional -- or not congregate but like multiple
10 units in a building, transitional supportive housing
11 and permanent housing.

12 And so, yeah, there are options when there
13 is availability.

14 413. Q. And are those time-limited?

15 A. They are not.

16 414. Q. Okay. You were being asked a number of
17 questions about where people could go. And I think
18 you started saying something about the Working Centre?
19 I wonder if you could just explain that reference?

20 A. Oh, there's a number of new initiatives
21 coming online across the continuum. And the Working
22 Centre is a 44-bed supportive and transitional housing
23 program that is actually located right across the
24 street from 100 Victoria. It's at 97 Victoria.

25 415. Q. Okay, you were asked about the Council

P. Sweeney (Re-Ex.) - 142

1 report that accompanied the site-specific by-law and
2 about the additional funding that was set aside under
3 that Council report, together with the site-specific
4 by-law.

5 What did that funding do in terms of
6 capacity?

7 A. That funding unlocked additional
8 capacity mostly in the -- in the provision of
9 additional motel spaces as they were available. And
10 allowed us to proceed with supporting specific
11 individuals residing at 100 Vic as of April 16th of
12 which there are only three or four people left.

13 416. Q. And in terms of the number of people or
14 capacity of the number of people that could be
15 supported?

16 A. That was based on 40.

17 417. Q. So the budget allocation was a plan to
18 provide accommodation for about 40 people?

19 A. That's correct.

20 418. Q. And how many people were there at the
21 encampment as of the date of the by-law? Roughly. I
22 think we have that.

23 A. I think it's roughly 40.

24 419. Q. Okay. Thanks, so those are my
25 questions in re-exam. You're done.

P. Sweeney (Re-Ex.) - 143

1 A. Okay.

2 MS. DOWN: Thanks, Peter.

3 MR. LOKAN: Checked, nothing from the
4 Amicus?

5 MS. PEREZ: Yeah, nothing.

6 MS. DOWN: Oh, sorry.

7 MR. LOKAN: Yeah.

8 THE WITNESS: Okay, thanks everybody.

9
10
11
12 --- ADJOURNED
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THIS IS TO CERTIFY that the foregoing
is a true and accurate transcription of
my recordings and notes, to the best of
my skill and ability.



Barbara A. Pollard
Certified Court Reporter

Photostatic copies of this transcript are not
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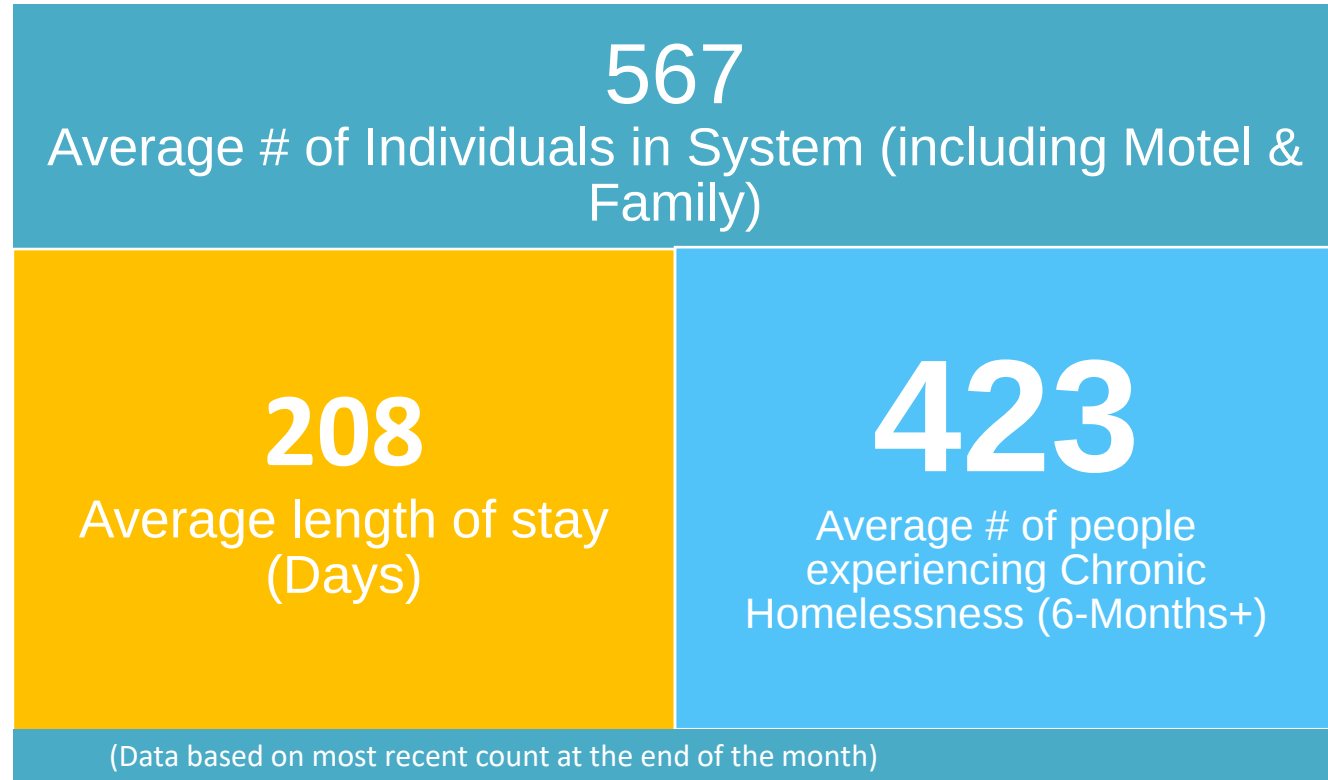
EXHIBIT “1”



Region of Waterloo

November 2025 HSS Data Update

Waterloo Region System Data – October 2025



94% Average
Occupancy

34 Average Daily
Beds
Available

** Please note that **the Average Occupancy %** and **the Average Daily # Beds Available** are calculated based on the system's average occupancy, **excluding Motel and Family programs**, as these do not have clearly defined capacity limits.*

Beds Availability - By Provider

153

A4220

Provider	Average Daily # Beds Available	Average Occupancy %
CSC	5	93.35%
Erb's Rd	1	98.65%
Kinsmen	5	66.53%
oneRoof	4	83.60%
SafeHaven 2.0	5	50.00%
ShelterCare	2	98.39%
SHIP 84 Frederick	6	87.44%
SHIP Edith MacIntosh	-7	124.09%
YWCA Cambridge	0	99.03%
Life Launch	2	66.67%
Marillac Place	2	82.00%
UA	9	89.27%

A4220

System Details - By Program Type¹⁵⁴

	Average # of Individuals	Average Daily # Beds Available	Average Occupancy %
Emergency Shelter	356	21	94.5%
Transitional Housing	83	13	87%
Motel	81	/	/
Family	59	/	/

** Please note that the Motel and Family programs do not report an average daily number of beds available or occupancy rate, since these programs do not operate with fixed capacity limits.*

System Details – By Location

	Cambridge	Kitchener					Waterloo		
	Total / ES	Total	ES	Motel	Family	TH	Total	ES	TH
Average # of Individuals in System (Occupancy)	105	255	103	81	59	12	219	148	71
Average Daily # Beds Available	11	12	8	\	\	4	11	2	9
Average Occupancy %	91%	91%	93%	\	\	73%	95%	99%	89%

**Program types are shown by location, and only those available at each location are displayed.*

**Motel and Family programs don't have fixed capacity limits, so only their average occupancy is included for fair comparison.*

Summary of Top 5 Book out reasons (212)

- Chose to stay somewhere else (63)
- Missed Nights (36)
- Whereabouts unknown (26)
- Service Restriction (18)
- Housed (16)

Emergency Shelter Service Restrictions

- 45 issued in the month of October across 8 shelters
- Median length of restriction: 4 days
- Top 3 reasons
 - Violence
 - Harassment, bullying, threats
 - Non-compliance with rules/regulations

Reasons for 26 Unique Turnaways (plus 10 anonymous callers) October 2025

Reason

No men's beds at time of call (18) No women's beds at time of call (1)

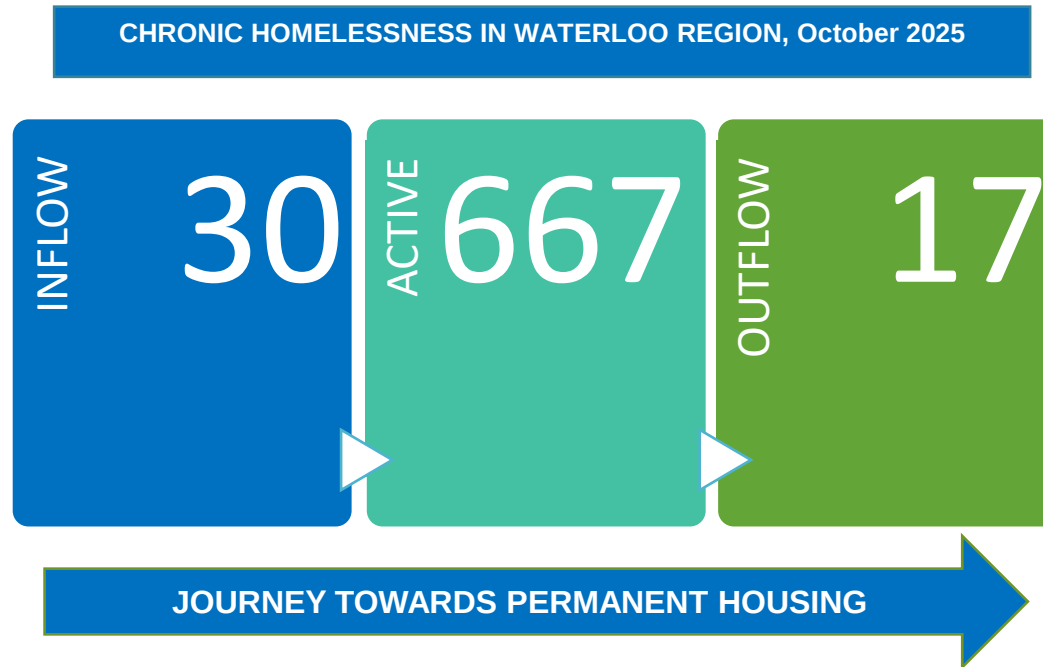
Restricted from 1 Emergency Shelter (23)

Restricted from 2 Emergency Shelters (15)

No pet friendly shelter (2)

Total = 59 turnaways

Chronic Homelessness



Inflow

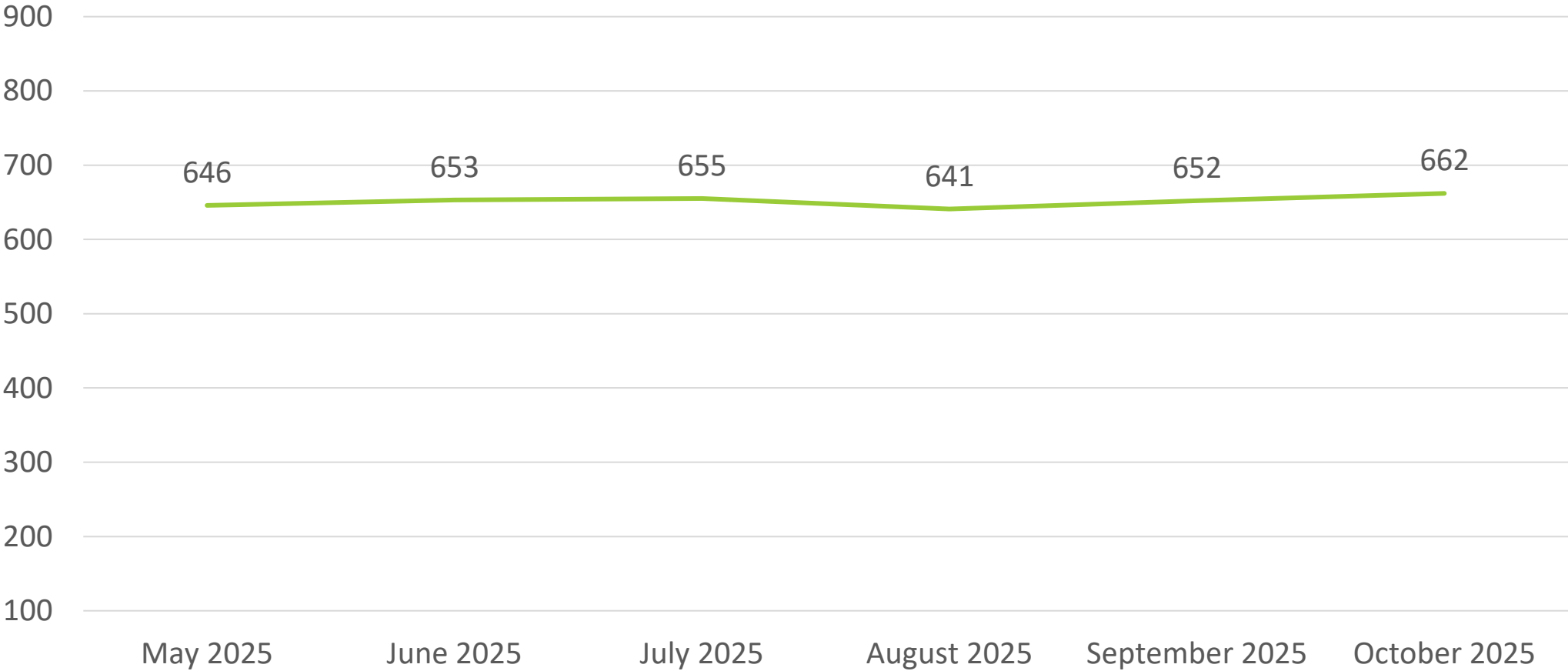
- Aged-in: **30**
- Returned from Inactive: 0
- Returned from Housing: 0

Outflow

- Housing: 15
- Inactive (No Contact/Moved): 1
- Inactive (Deceased): 1

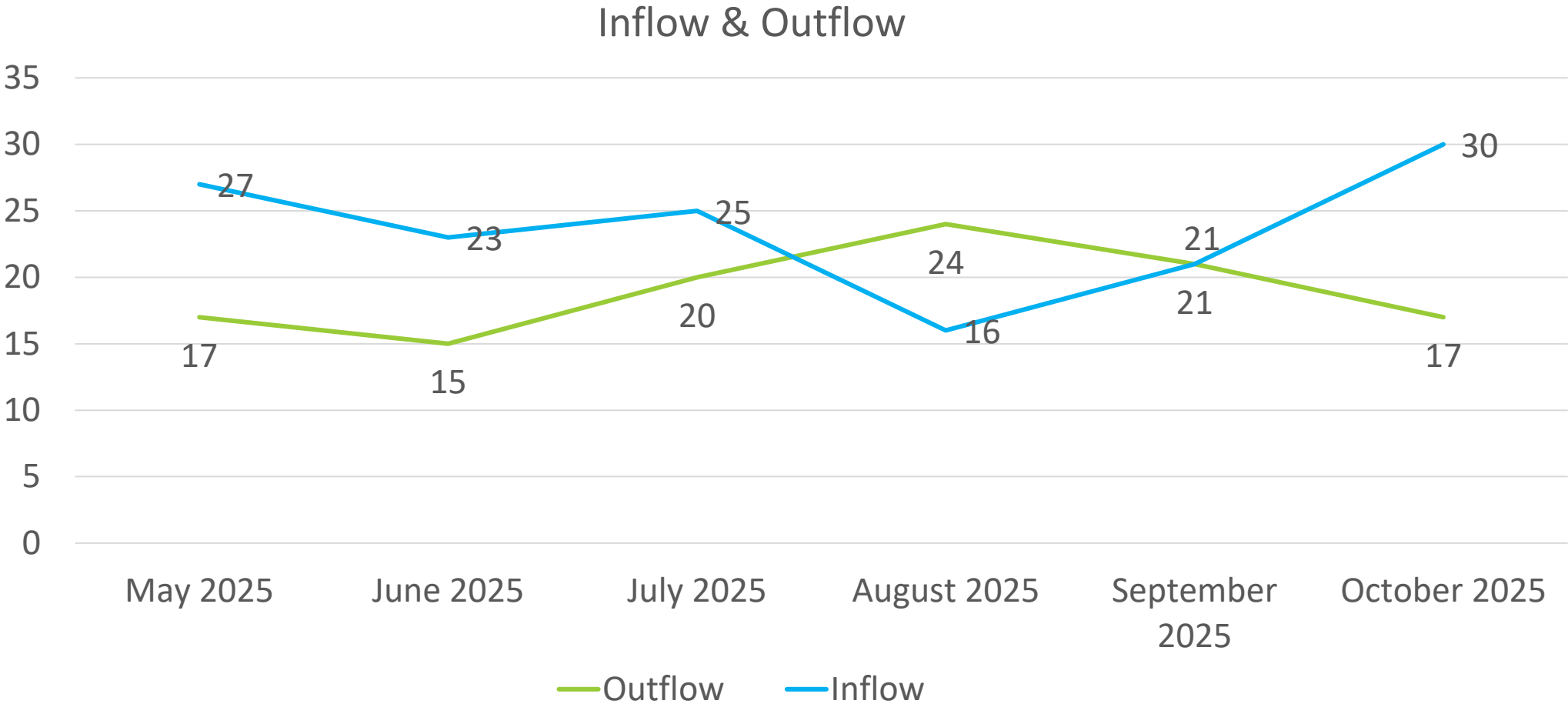
6 Month Trends

Active on PATHS



6 Month Trends

161



Current Active on PATHS: 667

A4229

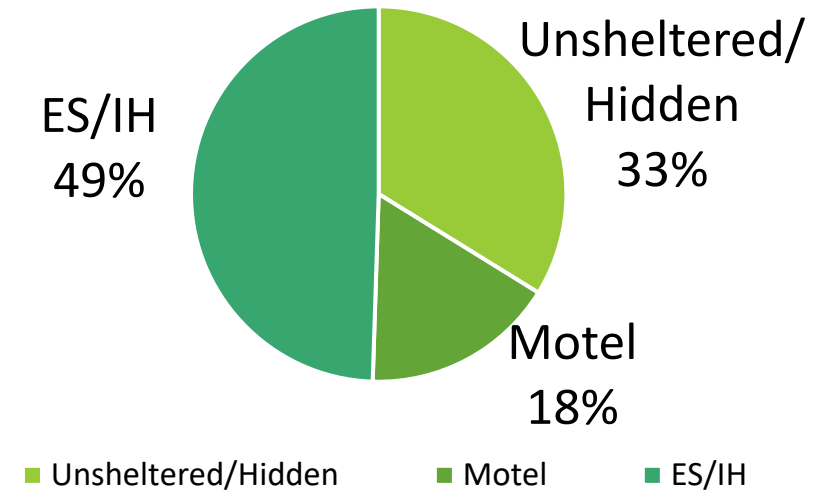
Demographics

- Age:
 - Youth: 17
 - 26-40: 291
 - 41-50: 196
 - 51-65: 150
 - 65+: 13
- Gender-id.:
 - Men: 66% (440)
 - Women: 33% (220)
 - Gender Diverse: 1% (4)
- Year that people were added to PATHS
 - 2025: 208
 - 2024: 188
 - 2023: 94
 - 2022: 65
 - 2021: 40
 - 2020: 35
 - Pre-2020: 37

Most recent stay

- Emergency shelter / Interim housing: 251
- Motel: 82
- Unsheltered / hidden: 166

Most Recent Stay



A4229

Family Shelter Data October 2025

71

People accessed the Family Shelter in
October 2025

29 adults (26+)
15 youth (16-25)
27 children (0-15)

3

Families housed
from
homelessness in
October

67

Average days in
Emergency
Shelter (Q2)

****Note:** The above data was calculated by family unit.

Demographics in Adult Shelter, Bed Availability

A4231

	Total occupied beds/ total beds available; Oct. 14	Total occupied beds/ total beds available; Nov. 18
Cambridge Shelter	95%	100%
HoF Shelter Care	101%	102%
SHIP- Edith Mac	95%	100%
SHIP- 84 Frederick St	85%	91%
YW Cambridge	95%	95%
OneROOF	88%	75%
BridgeCare	86%	71%
Erb's Road	98%	98%
Total % of Chronicity in ES system	95%	95%

Cismen, transmen, 25/26+:
0 beds available

Ciswomen, transwomen, and gender
diverse individuals, 25/26+:
5 beds available

All genders, 18-25:
6 beds available

All genders, 26+, medically complex:
4 beds available* no intakes

All genders, 25+, outdoor shelter:
1 bed available

Chronic Homelessness in Adult Shelters

A4232

165

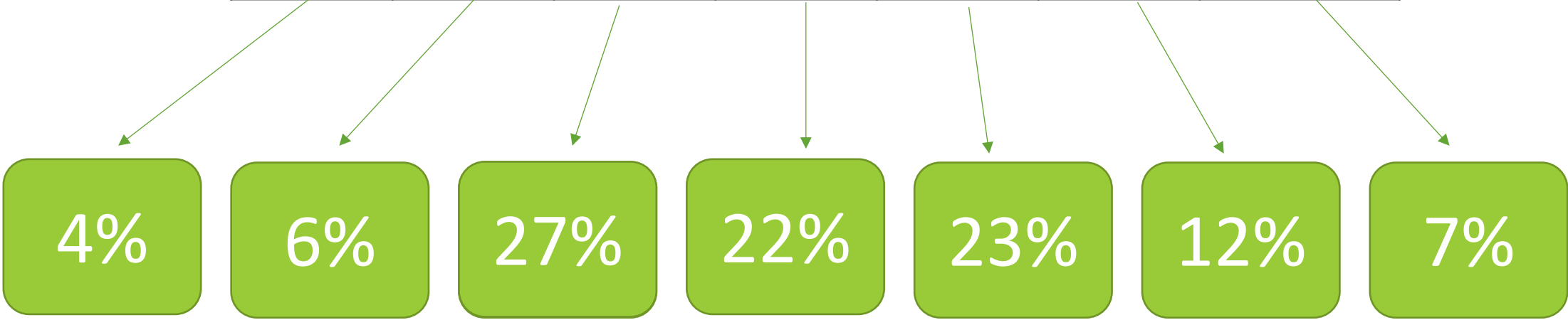
	Total Chronic Homeless Pop. / bed occupancy; July 22	Total Chronic Homeless Pop. / bed occupancy; Aug.20	Total Chronic Homeless Pop. / bed occupancy; Sept. 17	Total Chronic Homeless Pop. / bed occupancy; Oct. 14	Total Chronic Homeless Pop. / bed occupancy; Nov. 18
Cambridge Shelter	60%	50%	59%	46%	59%
HoF Shelter Care	88%	89%	85%	80%	88%
SHIP- Edith Mac	58%	76%	68%	60%	57%
SHIP- 84 Frederick St	68%	74%	73%	63%	74%
YW Cambridge	63%	80%	85%	63%	79%
OneROOF	50%	29%	38%	38%	44%
BridgeCare	86%	79%	77%	75%	70%
Erb's Road	96%	96%	96%	96%	96%
Total % of Chronicity in ES system	74%	67%	74%	67%	74%

A4232

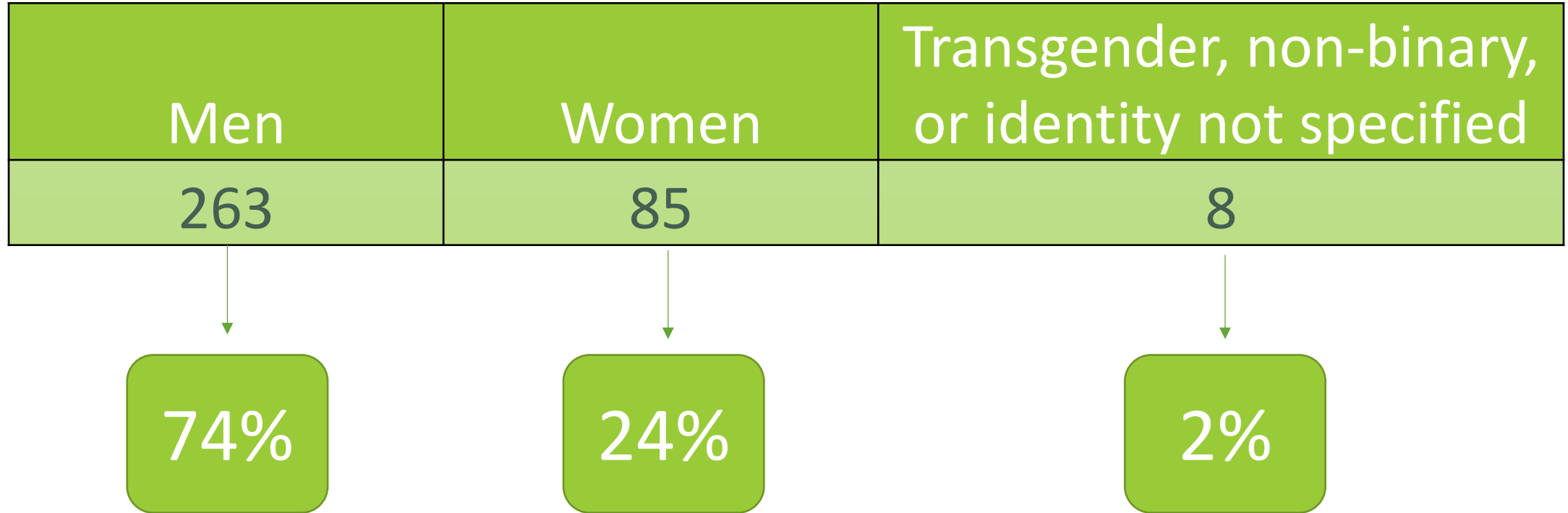
Age Demographics in Adult Emergency Shelters

166

18-24	25-29	30-39	40-49	50-59	60-64	65+
14	22	94	77	81	42	23



Gender in Adult Emergency Shelters¹⁶⁷



Of the individuals who identified as transgender, non-binary or their identity was not specified, 50% were experiencing chronic homelessness.

Citizenship and Immigration Status in Adult Emergency Shelters

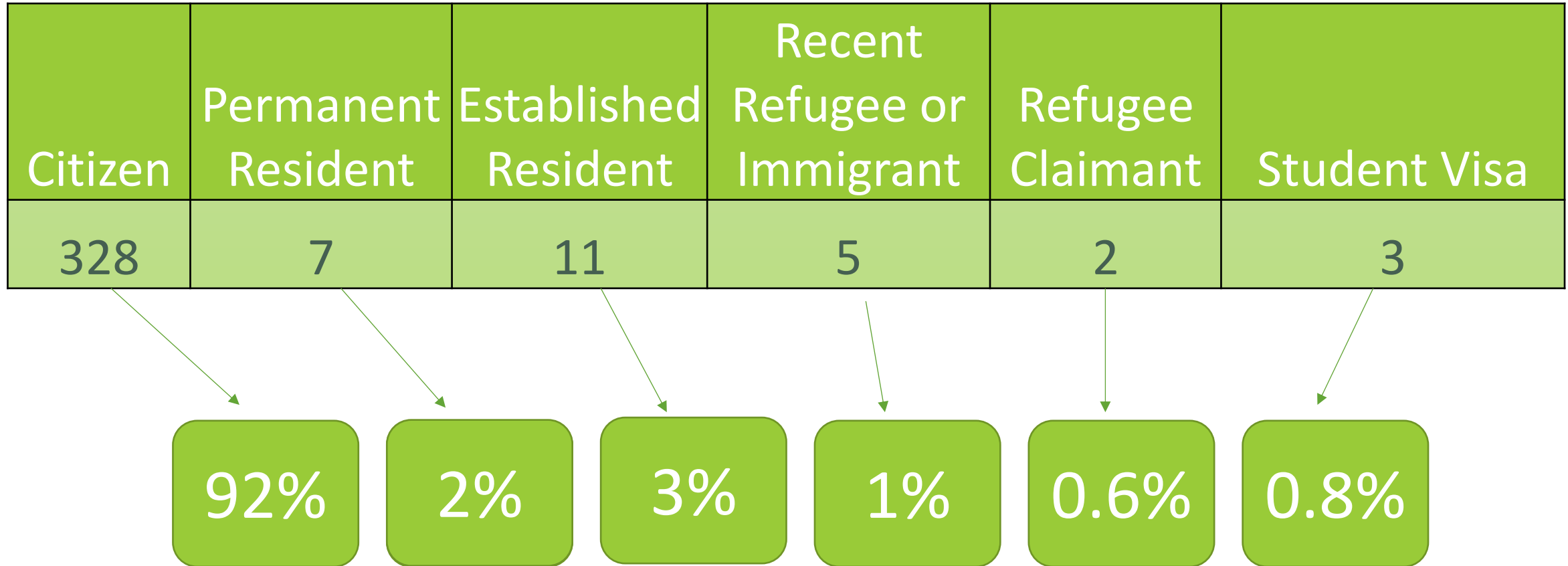


EXHIBIT “2”

2024 Point in time count findings



Region of Waterloo
COMMUNITY SERVICES

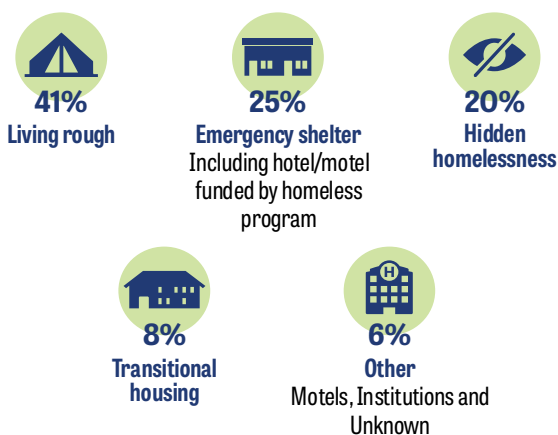
2371 people experiencing any type of homelessness were counted on **October 22, 2024.**

1009	people living rough (living in encampments, on the street, or staying in their vehicle)
446	people staying in an emergency shelter
353	people experiencing hidden homelessness (staying with friends or family, or temporary accommodations)
221	people staying in transitional housing
153	people staying in a motel funded by the Region
100	people in institutions (hospital, police custody)
89	people staying in unknown or undisclosed locations

1790 people included in the **point in time count** filled out a survey. A summary of the responses they shared is outlined below.

WHERE/HOW LONG

Where people are experiencing homelessness*



78%
of people surveyed said they experienced chronic homelessness

Racial identity

26%

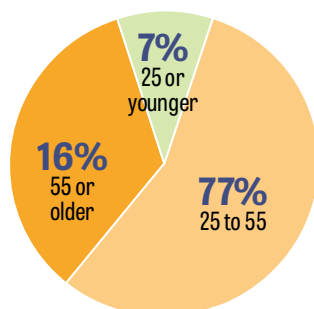
Identified themselves as members of a racialized community

17%

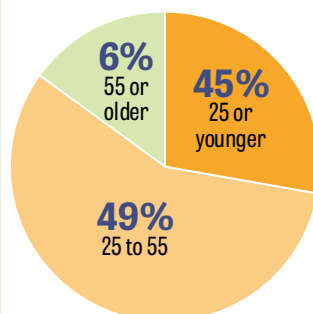
Identified themselves as First Nations, Inuit, or Métis

WHO

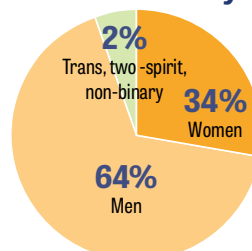
Age of survey respondents



Age when people first experienced homelessness



Gender identity



* The number of people experiencing homelessness in these locations differs from the numbers reported at the top of the page as this section reports on where survey respondents are experiencing homelessness - not everyone experiencing homelessness filled out a survey. Not everyone who participated in the survey answered every question. The percentages above are based on total responses for each question.

EXPERIENCES OF HOMELESSNESS

Top 5 reasons people said caused their experience of homelessness

Not enough income for housing **(44%)**

Conflict with spouse / partner **(18%)**

Landlord / tenant conflict **(13%)**

Unfit / unsafe housing conditions **(12%)**

Substance use issues **(11%)**



Health challenges reported by survey respondents

72%
Substance use

70%
Mental health

44%
Illness / medical condition

29%
Physical limitation

28%
Acquired brain injury

Top 10 services that would be helpful



Finding affordable housing
(76%)



Housing search support
(54%)



Bus pass
(53%)



Finding a job
(49%)



Accessing income support (e.g. OW, EI)
(45%)



Internet access
(42%)



Getting ID
(41%)



Outreach workers
(41%)



Secure storage
(39%)



Washrooms, showers
(39%)



Top 10 challenges to finding safe permanent housing

Low income **(80%)**

Rent too high **(78%)**

Addiction **(33%)**

No income assistance **(32%)**

Poor housing conditions **(31%)**

Mental health issues **(29%)**

Discrimination **(27%)**

Criminal history **(19%)**

Family breakdown / conflict **(18%)**

Physical health issues, accessibility **(16%)**

To learn more about Waterloo Region's Plan to End Chronic Homelessness, please visit:
engagewr.ca/end-chronic-homelessness

EXHIBIT “3”

From: [Jacara Droog](#)
To: [Peter Sweeney](#)
Subject: Urgent concerns regarding motel placements and security at 100 Vic
Date: September 18, 2025 12:27:25 PM

This message was sent from outside of Legal Aid Ontario. Please do not click links or open attachments unless you recognize the source of this email and know the content is safe.

Hi Peter,

I am reaching out to bring some pressing concerns to your attention.

1) There are numerous reports of women and femme residents offered motel rooms by the Region and then being sexually coerced and/or exploited by motel staff, with eviction being used as a threat if they refuse. The most recent report took place at the Weber Inn, but volunteers have heard similar accounts from people who were at other motel locations. The heinous Google reviews of some of the motels corroborate that this is occurring, and someone attempting to run a legitimate business would have appealed to get them removed. This issue was raised to USWs on Sept 10, and their response indicated that they were aware of this issue. I am concerned to hear that a femme resident of 100 Vic was placed at a motel this week following that conversation, considering there seems to be an awareness about these unsafe environments. Can you clarify how this issue is being dealt with to ensure the safety of residents offered in motels?

2) Security continues to facilitate public searches of 100 Vic. On Sept 14, around 3pm, a group of random men came on site and immediately walked up to the security vehicle. One of the security guards, Karan Gulati, escorted two of the men around the site. I'm not sure if you recall, but I previously flagged this issue on June 30, of security guards escorting members of the public around site, and you had assured me that security guards are not to be doing that. It's upsetting that security continues to help people disrespect the privacy of residents and their outdoor shelters. I would greatly appreciate if you could reach out to your colleague responsible for the Region's contract with Barber-Collins to reiterate that it's not security's role to escort people around the encampment.

Thank you for your attention to these issues,
 Jacara

Jacara Droog
 BA, BSW, MSW, RSW
 Pronouns: They/Them

I acknowledge with humility that I exist on the traditional land of the Anishinaabe, Chonnonton (also known as Neutral), and Haudenosaunee peoples. As an uninvited white settler, I am grateful for the opportunity to learn, live, and work on this land. Understanding the inherent connection between colonialism and all forms of violence is critical to my praxis, therefore, I bear the responsibility of (un)learning the true history of so-called Canada and challenge my current participation in colonization. I recognize the enduring presence, history, unwavering resistance, resurgence, emotional labour, and contributions of First Nations, Métis, and Inuit peoples and other Indigenous Peoples across Turtle Island. I extend deep gratitude to the land and water defenders of the Wet'suwet'en First Nation at the frontlines of the climate crisis, standing firm to protect the biodiversity of this sacred and finite earth.

EXHIBIT “4”

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Individual Housing Plan

Housing Plan for: [REDACTED]

Completed by: Nicole

	Housing Needs/Goals Identified (CHAC/PATHS/SH/OW/ODSP/Shelter Offers, etc.)	Next Steps (client & Staff) And Barriers/challenges	Progress/Notes	Checkbox Housing Progress (Steps 1-10)
1.	<i>Eg. Shelter options</i>	-Declined all shelter options as he has a partner		☒ Preliminary Step: Review Potential Housing Options ☒ Step 1: Get Income ☒ Step 2: Get Identification
2.	<i>Eg. CHAC, PATHS</i>	-Completed an application for Community Housing on November 2, 2021 -Completed PATHS intake	-Waiting on CHAC	☐ Step 3: Get Housing and Credit References ☒ Step 4: Identify housing stability needs, preferences, waitlists
3.	<i>Eg. OW/ODSP</i>	Income Source ODSP		☐ Step 5: Search Vacancies for Budget ☐ Step 6: Contacting Landlords
4.				☐ Step 7: Housing Viewings ☐ Step 8: Sign Lease ☐ Step 9: Paying Rent & Setting up Utilities
5.				☐ Step 10: Moving in and Home Set-up.

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Individual Housing Plan

Housing Plan for: [REDACTED]

Completed by: Nicole

	Housing Needs/Goals Identified (CHAC/PATHS/SH/OW/ODSP/Shelter Offers, etc.)	Next Steps (client & Staff) And Barriers/challenges	Progress/Notes	Checkbox Housing Progress (Steps 1-10)
1.	<i>Eg. Shelter options</i>	-Accepted a space at Erbs Rd shelter- Left after 1 night as not a good fit -Declined all shelter options	-Completed intake and interview assessment Veterans Program -No affordable housing due to income level of OW – Continuing to try and find suitable/affordable room rental.	✓ Preliminary Step: Review Potential Housing Options ✓ Step 1: Get Income ✓ Step 2: Get Identification ☐ Step 3: Get Housing and Credit References ✓ Step 4: Identify housing stability needs, preferences, waitlists ☐ Step 5: Search Vacancies for Budget ☐ Step 6: Contacting Landlords ☐ Step 7: Housing Viewings ☐ Step 8: Sign Lease ☐ Step 9: Paying Rent & Setting up Utilities ☐ Step 10: Moving in and Home Set-up.
2.	<i>Eg. CHAC, PATHS</i>	-Completed an application for Community Housing on March 1/25 -Completed PATHS intake	-Waiting on CHAC	
3.	<i>Eg. OW/ODSP</i>	-Applied for OW	On OW, working towards applying for CPP and OAS.	
4.				
5.				

Individual Housing Plan

Housing Plan for: [REDACTED]

Completed by: Nicole

	Housing Needs/Goals Identified (CHAC/PATHS/SH/OW/ODSP/Shelter Offers, etc.)	Next Steps (client & Staff) And Barriers/challenges	Progress/Notes	Checkbox Housing Progress (Steps 1-10)
1.	<i>Eg. Shelter options</i>	-Accepted a space at Weber Inn -Declined all shelter options as he has a partner and Dog	-Maintaining Motel stay and engaging with USWs	☒ Preliminary Step: Review Potential Housing Options ☒ Step 1: Get Income ☒ Step 2: Get Identification ☐ Step 3: Get Housing and Credit References ☒ Step 4: Identify housing stability needs, preferences, waitlists ☐ Step 5: Search Vacancies for Budget ☐ Step 6: Contacting Landlords ☐ Step 7: Housing Viewings ☐ Step 8: Sign Lease ☐ Step 9: Paying Rent & Setting up Utilities ☐ Step 10: Moving in and Home Set-up.
2.	<i>Eg. CHAC, PATHS</i>	-Completed an application for Community Housing on March 9, 2017 -Completed PATHS intake	-Waiting on CHAC	
3.	<i>Eg. OW/ODSP</i>	Income Source ODSP		
4.				
5.				

TAB 17

Court File No. CV-25-00000750-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

THE REGIONAL MUNICIPALITY OF WATERLOO

Applicant

and

PERSONS UNKNOWN AND TO BE ASCERTAINED

Respondents

APPLICATION UNDER Rule 14.05 of the *Rules of Civil Procedure*

This is the Cross-Examination of **Dr. Bernie Pauly** on her affidavit dated August 14, 2025, taken via Zoom videoconference on consent of the parties on December 15, 2025.

APPEARANCES:

ANDREW LOKAN, Mr. Counsel for the Applicant
GRETA HOAKEN, Ms.

JOANNA MULLEN, Ms. Counsel for the Respondents
CHARLOTTE CAHILL, Ms. Student-at-Law

KAREN STEWARD, Ms. Amicus Curiae

(i)

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B. Pauly (Cr.-Ex.) - 3

DECEMBER 15, 2025

DR. BERNIE PAULY, AFFIRMED

CROSS-EXAMINATION BY MR. LOKAN:

1. Q. Good morning, Dr. Pauly.

A. Good morning.

2. Q. So I'm Andrew Lokan and I am counsel for the Regional Municipality of Waterloo. And so I have some questions for you on your affidavit that you have provided in this proceeding. And I'll make sure I get the date right. I believe it to be August 14, 2025. Do you have that before you?

A. I do, yes.

3. Q. Okay. And just to check, you don't have any other materials in front of you at the moment, do you?

A. No, only my affidavit.

4. Q. Okay. I know you've been a witness before, so this will hopefully just be a few quick reminders.

First is that we should try really hard not to talk over each other. So if you're talking and I'm talking, one or both of us should stop because it's very difficult for the court reporter to make out the transcript, okay?

B. Pauly (Cr.-Ex.) - 4

1 A. Yes.

2 5. Q. And, related to that, there are certain
3 things that don't show up on the transcript such as
4 you nodding your head or if you answer a question with
5 "Uh huh," or, "Uh-uh." Both of those come out the
6 same on the transcript so we try to stick to "Yes," or
7 "No," or other actual words. So try to remember that
8 and if you don't, I'll try to remind you. Okay on
9 that?

10 A. Yes, I understand.

11 6. Q. Thank you. So I just have a few
12 questions about your affidavit. In the first part,
13 you write about the composition of demographics of
14 people experiencing homelessness. Do you recall that
15 in your affidavit?

16 A. Yes, that's correct.

17 7. Q. Now I just want to be sure of this.
18 You haven't made a specific examination of the
19 composition of demographics of the encampment at 100
20 Victoria Street North in Kitchener, have you?

21 A. No, but the cities included in the
22 national Point-in-Time Count do include Waterloo.

23 8. Q. Right, and I'll go into that in a
24 minute. You haven't ever visited the encampment, have
25 you?

B. Pauly (Cr.-Ex.) - 5

1 A. No, I have not.

2 9. Q. If you were to do that this time of
3 year, you would be exposed to southern Ontario
4 winters. It can be quite a bit colder out here than
5 in British Columbia, wouldn't you agree?

6 A. Yes. And it's a pleasant day here in
7 Victoria, as well, so I appreciate that.

8 10. Q. And I take it that you haven't spoken
9 to any person residing or occupying the encampment.

10 A. I have not.

11 11. Q. Okay. Thank you. Now you point out
12 that, in paragraph 10 of your affidavit, and you can
13 have a look at it if you like, this is what you just
14 referred to, the Point-in-Time Count?

15 A. Correct.

16 12. Q. So the first sentence of your
17 affidavit, paragraph 10, you say:

18 "Nationally, the last coordinated
19 Point-in-Time Count was 2020 to 2022 in
20 which data from 72 communities,
21 including the Waterloo region,
22 highlighted numbers and characteristics
23 of homeless persons based on
24 enumeration and survey data."

25 That's from your affidavit. That, then, does not

B. Pauly (Cr.-Ex.) - 6

1 include the 2024 -- I'm going to use the word "PiT
2 Count", P-I-T Count. Can you just confirm that's the
3 case?

4 A. Yes. Because it was released almost, I
5 think it was released August -- around August 15th. So
6 it's probably more accurate to say that was the most
7 current count at the time of the affidavit.

8 13. Q. Okay. In any event, you were able to
9 include Waterloo region as one of the 72 communities
10 from the 2020 to 2022 PiT Count, but you weren't able
11 to include Waterloo's data from 2024. Is that fair?

12 A. Not quite. Just to clarify, the 2024
13 PiT count which was released after my affidavit was
14 sworn also includes Waterloo in their national Point-
15 in-Time Count.

16 14. Q. Right. But that wasn't the one you
17 used for your affidavit.

18 A. That's correct. I used the one that
19 was most current at the time, which was 2020 to 2022.

20 15. Q. And that's averaged across the whole
21 country?

22 A. That's across the whole country.
23 Correct.

24 16. Q. Okay. You don't have any specific
25 knowledge, for example, of Indigenous over-

B. Pauly (Cr.-Ex.) - 7

1 representation at 100 Victoria Street North, do you?

2 A. Of the specific encampment, no, but of
3 provincial-level, national-level data, it's pretty
4 consistent that there's over-representation of
5 Indigenous people in encampments in Canada.

6 17. Q. And I'm just going to use the term,
7 "100 Vic," so I don't need to give the full name of
8 the encampment each time.

9 A. Right.

10 18. Q. You say in paragraph 17 that people of
11 older age are among the fastest growing segment of the
12 homeless population and you refer to the national
13 homeless count -- I take it that's, again, the 2020 to
14 2022?

15 A. Correct.

16 19. Q. And you say, "People between the ages
17 of 50 to 64 comprise 24% of the homeless population."
18 This is in paragraph 17. Do you see that?

19 A. Yes, I do.

20 20. Q. But you're not, here, saying that -- or
21 you don't actually know if that's an over-
22 representation of that segment of the population
23 nationally, do you?

24 A. It's a representation of a trend that
25 is an increase among homeless populations.

B. Pauly (Cr.-Ex.) - 8

1 21. Q. Right. So what you're saying is that
2 older, 50 to 64, which doesn't sound quite so old to
3 me, but older, 50 to 64, that segment is growing, not
4 necessarily that it's overrepresented. Is that fair?

5 A. It's increasing in representation. I
6 think you're referring in terms to how does it compare
7 to the general population of seniors.

8 22. Q. Yes.

9 A. I think that's the focus of your
10 question and I would say that sentence -- that
11 paragraph does not speak to that. You're correct.

12 23. Q. Okay. Thank you. And, again, you're
13 not aware of the specifics of the over 50 population
14 at 100 Vic?

15 A. That's correct.

16 24. Q. Okay. I take it, also, I will get the
17 same answer, that you're not aware of the specifics of
18 the LGBTQ2S+ population at 100 Vic?

19 A. Not -- not at that specific encampment
20 but in terms of national and provincial
21 representation, I am familiar.

22 25. Q. Okay. You've been involved in some
23 previous cases, correct? Involving encampments.

24 A. That is correct, yes.

25 26. Q. And you were an expert witness in a

B. Pauly (Cr.-Ex.) - 9

1 case involving an encampment at Abbotsford in 2016?

2 A. In Abbotsford in 2016?

3 27. Q. I may have the wrong case. Maybe it's
4 a case called *Adamson*.

5 A. *Adamson* was a very early case.

6 28. Q. 2016.

7 A. 20 -- we're in 2025, so ---

8 29. Q. I know, but the first of these cases
9 came 2008, didn't it?

10 A. That'd correct.

11 30. Q. (Indiscernible).

12 A. So *Adamson* was 2016, you are correct on
13 that. Yes, sorry.

14 31. Q. You were an expert witness in the
15 *Adamson* case?

16 A. Yes.

17 32. Q. Okay. I'm going to come back to that a
18 little later. You were also an expert witness in a
19 case in 2018 involving an encampment in Nanaimo?

20 A. That's correct.

21 33. Q. And in that case, you were put forward
22 as an expert, but you were found not to be in
23 compliance with the requirements for opinion evidence,
24 so you ---

25 A. That was ---

B. Pauly (Cr.-Ex.) - 10

1 34. Q. You weren't actually qualified as an
2 expert in that one, correct?

3 A. No, that's incorrect. I was
4 disqualified on the basis of some filing of paperwork
5 that the lawyers were responsible for. And if you
6 need to know the exact name of it, it was something
7 that was a piece of paperwork that had to be filled
8 out to say that, yes, I was an expert.

9 35. Q. Okay. You're not disagreeing with me
10 that you were not qualified to be an expert before the
11 Court in the Nanaimo case in 2018?

12 A. I did not have -- I did not act as an
13 expert witness because paperwork that was required was
14 not completed by the lawyers as a technical point.
15 And this is quite important, actually, so I appreciate
16 you asking about it because there's a difference
17 between my qualifications to testify and whether or
18 not a piece of paperwork was filled out, so I
19 appreciate the opportunity to clarify that.

20 36. Q. Right, and that difference is a legal
21 difference. So you're explaining the legal system to
22 me?

23 A. No, I am explaining my academic
24 qualifications and ability to act as an expert witness
25 as I was poised to do so. And I certainly would leave

B. Pauly (Cr.-Ex.) - 11

1 it to you as to the technicalities of the legal system
2 as to how certain paperwork is required and if it's
3 not completed would then disqualify me, which is what
4 happened in this case.

5 37. Q. So in 2020, you were also an expert
6 witness in the Fraser Port Authority case. Do you
7 recall that?

8 A. Yes, correct.

9 38. Q. And your evidence was subject to some
10 criticism. You were told that much of your affidavit
11 amounted more to argument than opinion evidence. Do
12 you recall that?

13 A. Yes.

14 39. Q. Okay. Thank you. It was also observed
15 by the Court in that case that you're passionate about
16 the plight of the homeless. Would you accept that
17 that's a fair description of you?

18 A. I would accept that as a researcher who
19 has done research in this area, it is clear to me that
20 the conditions in which people who are homeless live
21 are unsafe, untenable. And so I definitely have
22 geared my research to support the calls of many,
23 actually, including our national housing advocate of
24 the importance of permanent housing, and I think
25 that's a fairer statement of my position.

B. Pauly (Cr.-Ex.) - 12

1 40. Q. And you're passionate about it, aren't
2 you?

3 A. Yes. A lawyer once said to me -- a
4 lawyer actually once said to me, "When you know the
5 evidence, how could you not be?"

6 41. Q. That was a lawyer who was an advocate?

7 A. It was a legal lawyer who was
8 representing their clients to their best ability, yes.

9 42. Q. And acting for -- in one of those cases
10 for the group of unhoused residents?

11 A. Yes, which were their clients, and
12 which is considered appropriate legal representation,
13 I'm sure.

14 43. Q. Was it Cathy Boies Parker?

15 A. Is this -- I'm trying to understand and
16 I'm just pausing for a moment to understand.

17 MS. MULLEN: I'm going to object because I
18 don't understand how this is relevant at all
19 to the case that he had.

20 MR. LOKAN: Just interested in her
21 (indiscernible) as this person's been before
22 and is an authority on whether people should
23 or shouldn't be passionate or if you know
24 the facts, how can you not be.
25

B. Pauly (Cr.-Ex.) - 13

1 BY MR. LOKAN:

2 44. Q. Do you recall who it is? Who it was?

3 A. I do.

4 MS. MULLEN: Again, I would object that I
5 just don't think that this is relevant.

6 MR. LOKAN: I'll withdraw as long as we know
7 that it was someone whose job it was to
8 advocate for the Court for the people
9 experiencing homelessness in that case.

10
11 BY MR. LOKAN:

12 45. Q. You say in the second part of your
13 affidavit that there are a number of harms associated
14 with evictions and displacement.

15 A. Yes.

16 46. Q. At around paragraphs 20 to 23. I'm
17 just interested in one of your references, and we
18 might want to bring that up. Paragraph 20, sub-E, I
19 wonder if you can just look at that?

20 A. Yes.

21 47. Q. So that is a paper by Barocas and
22 others. Do I have that pronunciation?

23 A. Yes, I think you're very close.

24 Thanks.

25 48. Q. Okay. And that is a 2023 paper,

B. Pauly (Cr.-Ex.) - 14

1 "Population Level Health Effects of Involuntary
2 Displacement of People Experiencing Unsheltered
3 Homelessness Who Inject Drugs in U.S. Cities."

4 A. Correct.

5 49. Q. Am I to understand that that was
6 restricted to those who inject drugs in U.S. cities?

7 A. Yes.

8 50. Q. Okay. And the way you characterized
9 the paper, you say that the authors predicted that
10 involuntary displacement or "sweeps" of people
11 experiencing homelessness would increase overdose,
12 deaths, hospitalizations, and reduced access to opioid
13 agonist therapy?

14 A. Yes.

15 51. Q. It's characterised as a prediction. So
16 this was not based on having studied and found in the
17 past that these harms had occurred, it was a
18 prediction based on data for the future. Is that
19 fair?

20 A. That's correct. And I'd just like to
21 add a bit of nuance to that. So it's an example of a
22 rigorously designed quantitative study that looks at
23 the data for individuals in those 23 cities.

24 52. Q. Yes.

25 A. And then, as you noted, it does -- it

B. Pauly (Cr.-Ex.) - 15

1 looks at the past mortality data and then it looks at
2 two models: one where there's displacement and one
3 where there's not. And so that is how they come to
4 those conclusions.

5 53. Q. Okay. And I'm going to ask -- and we
6 may be able to pull this up from the study. There's a
7 particular paragraph describing the kind of
8 displacement that is being referred to in the article.
9 And I'm just going to check whether we're able to get
10 that on the share screen.

11 Okay. So we've highlighted a paragraph in
12 the article. I'll just give you a moment to read it.
13 Can you see that?

14 A. Yes, thank you.

15 54. Q. And I'm going to read it into the
16 record so that it's there on the transcript:

17 "Across the U.S., involuntary
18 displacement that forces people
19 experiencing homelessness to regularly
20 relocate from one temporary location to
21 another is common. Involuntary
22 displacement may be operationalized or
23 labelled differently depending on the
24 city. Sometimes referred to as
25 "sweeps," "clearings," or "clean-ups,"

B. Pauly (Cr.-Ex.) - 16

1 displacement is often done without
2 connecting people to services or
3 housing and without regard for past
4 trauma. People experiencing
5 homelessness are often forced to
6 disperse away from services, resulting
7 in loss of personal belongings,
8 medications, identification cards, and
9 social support. Involuntary
10 displacement may disproportionately
11 impact people experiencing homelessness
12 who use non-prescribed drugs because it
13 can affect access to sterile injection
14 equipment, naloxone, and medications
15 for opioid use disorder, decreased
16 access to support services, and life-
17 saving medications, may increase
18 overdose risk and death. This model
19 and study aimed to better understand
20 the potential long-term health effects
21 of involuntary displacement among
22 unsheltered people experiencing
23 homelessness who inject drugs in 23
24 U.S. cities."

25 So have I read that accurately?

B. Pauly (Cr.-Ex.) - 17

1 A. Yes.

2 55. Q. Okay. Thank you. So what this article
3 is referring to is what's commonly regarded as
4 "sweeps," as it says. Is that fair?

5 A. I think -- it says, "sweeps," but it
6 also includes, "clearing," and "daily displacement,"
7 and I think ---

8 56. Q. Yes.

9 A. --- it's important to keep all those in
10 the mix.

11 57. Q. And they are or can be characterized by
12 authorities just swooping in, moving everybody along
13 without regard to where they're going to go next,
14 correct?

15 A. I think it's -- that is one form, yes.

16 58. Q. And according to this article, a
17 relatively common form.

18 A. Yes, common form in the -- or it's
19 maybe better to say that was the form that they
20 identified. Yes.

21 59. Q. Okay. In the U.S.?

22 A. In the U.S., but it also, as you know,
23 happens in Canada as well.

24 60. Q. And so we're talking about, in most
25 cases, dispersing people without keeping track of them

B. Pauly (Cr.-Ex.) - 18

1 and without providing them with alternative
2 accommodation, correct?

3 A. That's difficult to discern, mainly
4 because, often, municipalities will offer some form of
5 accommodation. It may be done in that way. And I
6 would just like to sort of characterize, which is --
7 you know, "sweeps," which is something that can happen
8 after maybe months of an encampment or it may happen
9 on a more regular basis. Those kind of big sweeps,
10 it's not uncommon for municipalities to visit or have
11 workers or outreach workers who visit an encampment
12 and offer housing and then that housing may or may not
13 come to be when the sweep actually happens. So it's
14 -- that's a more planned example.

15 61. Q. Right. And so what you're pointing to
16 is that there could be a lack of follow-through. An
17 outreach worker talks to an individual at the
18 encampment and says, "Look, we could find a place for
19 you," but then the sweep happens and that placement
20 never occurs. That's what you're saying is one
21 possibility?

22 A. Yes, that's one possibility. It also
23 may be that housing isn't available or the housing
24 that's offered may not be suitable for the individual.

25 62. Q. Right. And neither may encampment be

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1 suitable for an individual.

2 A. Encampments are -- and I think you've
3 seen the article that -- that I co-authored that was
4 included in the affidavit, encampments are a last
5 resort often when other suitable options aren't
6 available.

7 63. Q. Right, right. I mean, for example, you
8 can have things like murders in encampments. You've
9 heard of that, right?

10 A. Yes. I think we've heard of murders in
11 many settings, right? They can happen -- I've heard
12 it happen in all kinds of settings, housing shelters
13 (indiscernible)...

14 64. Q. Including encampments.

15 A. Yes, including -- well, I'm wonder --
16 I'm just trying to think and many you have a more
17 specific example. I don't -- and I don't know that we
18 need examples but is it -- I don't have evidence that
19 it's any more prevalent in an encampment than in other
20 settings.

21 65. Q. As far as examples go, and you may not
22 be aware from where you are, but there was an
23 allegation, at least, in Barrie, that one encampment
24 resident murdered two others and dismembered their
25 bodies. Is that something that's come to your

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1 attention?

2 A. I mean, I certainly -- I haven't seen
3 that particular example in the news, but I think ---

4 66. Q. Okay.

5 A. --- we need to be aware of how those
6 kinds of situations -- I don't know if it was proven
7 in the Court of Law. Anyways, that's a different
8 issue.

9 MS. MULLEN: I don't think that's on the
10 record anywhere. You know, we don't have
11 any evidence of that before the Court.

12 MR. LOKAN: Well, we do have something on
13 the record, but we can take that offline.

14 MS. MULLEN: So an instance in Barrie ---

15 MR. LOKAN: I won't trouble -- we don't need
16 to trouble Dr. Pauly with this. She's said
17 she's not aware of the allegations, so we
18 don't need to go any further with that.

19
20 BY MR. LOKAN:

21 67. Q. So just looking at your paragraph 20 in
22 the harmful impacts that you say can arise from sweeps
23 or clearances of encampments, I just want to see if I
24 can understand a couple of them. You talk about loss
25 of survival items, and that certainly is mentioned in

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1 the literature including that paper that we just
2 looked at, right?

3 A. Correct.

4 68. Q. So during a displacement event, people
5 can have belongings confiscated including survival
6 gear, but you could -- if you did a transition from an
7 encampment better, you could avoid or mitigate that
8 harm, couldn't you, by storing people's belongings?

9 A. That is the theory, you are correct
10 that people will say, "We'll store your belongings."
11 The reality is, is that often storage, depending on
12 who's -- there's two things that immediately need to
13 be considered.

14 One is that, first, sometimes items are
15 discarded before they're stored, and that can be for a
16 variety of reasons. People may not realize, you know,
17 for example, one woman, and this was a fairly common
18 (indiscernible) case, had the ashes of a loved one
19 thrown out mainly because I don't think, you know, it
20 was recognized what the item necessarily was and then
21 ---

22 69. Q. Again, that wouldn't be a harm unique
23 to an encampment, would it? I mean, that happens in
24 funeral homes, for example.

25 A. I think, though, the intent -- and I

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1 don't know about funeral homes, I'm sorry ---

2 MS. MULLEN: Yes, I think that's outside of
3 Dr. Pauly's evidence. She can not comment
4 on what funeral homes do.
5

6 BY MR. LOKAN:

7 70. Q. Okay. But certainly you would agree
8 with me that the inadvertent disposal of ashes is
9 something that could happen anywhere, not just in an
10 encampment.

11 A. I don't know the extent to how it
12 happens. I can speak to the impact of that on
13 individuals. And I just want to ---

14 71. Q. It would be devastating for anyone,
15 wouldn't it?

16 A. I just want to clarify that the
17 question that I'm answering is not -- it's specific to
18 the storage of belongings, correct, as a mitigation
19 strategy for lost items? Is that the question?

20 72. Q. The question started with, "You could
21 have arrangements to store belongings made in a
22 commitment to the Court, for example." And you're
23 saying, "Well, things can still go wrong." And I
24 accept that, but that can happen anywhere
25 (indiscernible).

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1 A. It can still go wrong in the sense that
2 I want to mention my first point was around things
3 being discarded that are considered to not be of
4 value, and my second point is the length of time that
5 storage is available is often limited.

6 Sometimes there's expectations that
7 individuals pay for storage and have to -- or it could
8 be in a place that's difficult or requires
9 transportation to access, so there's a number of
10 barriers that are highlighted. And I think those
11 should be considered as well.

12 73. Q. Okay. So you would recommend, then, if
13 there was going to be storage of items, that it not be
14 for a brief period and that it not require payment,
15 for example.

16 A. Sure. And be able -- relatively easy
17 for people to access. So for example, if the storage
18 facility is, you know, an hour bus ride away or even a
19 significant distance away, that would also be
20 problematic.

21 72. Q. Okay. And you say in paragraph C,
22 20(c), there can be increased stigma and disruption of
23 community connections. But again, these are harms
24 that could either avoided or mitigated. In the event,
25 for example, that the municipal authorities took care

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1 to ensure that people were going to a placement and
2 that their connections were maintained.

3 A. Yes, if those placements are available
4 and it's an option that is suitable for the
5 individual.

6 73. Q. Okay. And loss of medications and
7 medical equipment, that's a sub-category of loss of
8 belongings. A very important sub-category.

9 A. That's correct.

10 74. Q. And for that one, you'd want to take
11 special care to ensure that things were not discarded
12 by mistake and that they were treated with respect and
13 kept safely. Is that fair?

14 A. I would say it is fair. Those things,
15 people need to have with them.

16 I think it's also important to remember that
17 if someone is provided with a placement that's at a
18 distance from their primary care clinic or where they
19 access other kinds of services, that makes it
20 extremely difficult for them to continue to receive --
21 to have those connections and receive the medical care
22 and prescriptions that they require.

23 75. Q. So if a municipal government had its
24 eyes on those items and wasn't just, for example,
25 putting people on a bus and sending them to another

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1 part of the country, that's a harm that could be
2 mitigated.

3 A. It's a harm that could be mitigated
4 with permanent housing in a -- yes, in a neighbourhood
5 that is -- those services are accessible.

6 76. Q. Or even if it's to transitional housing
7 for which people graduate to permanent housing.

8 A. I'm not sure if we will get to this in
9 your next set of questions, but there's quite -- I
10 think there's an important conversation about
11 transitional to permanent and what the evidence says,
12 but I don't want to jump ahead, so ...

13 77. Q. Right. You may be referring to housing
14 first?

15 A. Correct.

16 78. Q. Okay. And there may be a
17 misunderstanding because it's the region's evidence
18 that it agrees with housing first and has never meant
19 to suggest otherwise. So we may need not get to that.

20 A. Just a comment on that, because many
21 regions have housing first philosophies or policies,
22 but what it means is that people are moved into
23 permanent housing immediately. They are not expected
24 to go through other forms of temporary housing. And I
25 think the reality for many municipalities is that the

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1 permanent housing is often not available. It's at a
2 premium or, you know ---

3 79. Q. Right.

4 A. --- there's no vacancy. So I just want
5 to raise that to ensure it's on the record. Thank
6 you.

7 80. Q. Yes. It may well be the case that
8 there's simply not enough permanent housing to be able
9 to place everybody in permanent housing immediately,
10 so that's what you're referring to.

11 A. That is correct. Thank you.

12 81. Q. Okay. And you refer in paragraph 20(e)
13 to matters such as not having naloxone available in
14 your new location, and that's one of the things that
15 was cited in the study, that we looked at the
16 definition of sweeps or the reference to sweeps. So
17 naloxone, access to naloxone would be a factor.

18 A. I think the reference would be to the
19 fact that it can be discarded as well as people who
20 can help to administer the naloxone, you could be
21 disconnected from those individuals as well in a
22 sweep. And so it's a loss of two things: it's the
23 naloxone itself and someone who is able to administer
24 it, which may be someone else that's in your
25 community.

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1 82. Q. Right, and ideally someone who has the
2 qualifications to administer naloxone.

3 A. Naloxone training is available to
4 everyone in the public and it's very accessible
5 training.

6 83. Q. So someone who had done the training,
7 for example.

8 A. Or who has been -- many, many people in
9 encampments have received instruction on how to use
10 naloxone. It's not a -- I guess what I'm trying to
11 get at, it's not, you know, a course that's days long
12 in a classroom. It's actually a relatively simple
13 matter, somewhat similar to when -- I don't know if
14 anyone has an allergic response and requires
15 epinephrine, it's a fairly simple procedure that could
16 be taught by laypeople to laypeople.

17 84. Q. And you would expect that the people in
18 social services have had that training?

19 A. Yes, I would.

20 85. Q. Thank you. And, again, this is a harm
21 where as long as people remain connected to a supply
22 of naloxone and remain connected to people who can
23 administer it, that's another harm that can be
24 mitigated or avoided.

25 A. I would say that, yes, with a

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1 qualification, is that stigma, and I think we're all
2 familiar with the degree of stigma related to
3 substance use that often means people, when they're
4 removed from people who they know, who they feel safe
5 with, may not -- maybe someone isn't available or they
6 may not feel safe to call on someone because of the
7 wide-ranging stigma in society that people are very
8 cautious about. And it takes time to be able to trust
9 people.

10 86. Q. Okay. I want to go back to the *Adamson*
11 case. And you're aware that in that case an
12 injunction was eventually granted to allow the
13 dismantling of the encampment?

14 A. I am.

15 87. Q. Okay. And I just want to see if we can
16 look a little bit at the terms that occurred there.
17 And so if we're able to pull up paragraph two of that
18 decision?

19 So the date, here, of the decision, shows up
20 on the first page. And it looks like it was decided
21 on July 5th of 2016. And that's in the top right-hand
22 corner. And I only mention that because of the terms
23 of an order later, but as I understand the case -- and
24 this was around, too, there was an initial injunction
25 that was denied, correct?

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1 A. That is correct. Thank you for
2 bringing that up.

3 88. Q. And in the second injunction, and this
4 is an injunction where the city that's moving -- I
5 know it's the Province of British Columbia that is the
6 moving party, and in the second injunction
7 application, the Commons was granted the injunction
8 with certain terms. And is that your recollection?

9 A. Yes.

10 89. Q. Okay. And part of the set-up here was
11 that for those who were resident at the encampment,
12 there were three choices or three possible forms of
13 accommodation that were provided. So there was a
14 transitional home, a central care home, and a female-
15 specific facility, the Atira Women's Resource Society
16 in Vancouver. Do you have knowledge of that, or do
17 you have recollection of that?

18 A. Yes, I do.

19 90. Q. Okay. And then if we go to paragraph
20 86, we can see the order the court eventually made.

21 Okay. So the way this is set up is that
22 "Within three days of the order ..." that is, within
23 three days of July 5th, "The defendants ..." and that
24 would be those residing at the encampment:

25 "... At the date of the order who did not

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1 have access to housing elsewhere and who
2 wished to transition to new housing must
3 identify themselves and provide a picture
4 ..."

5 Et cetera, et cetera.

6 And clause B, "They must identify what are
7 their possessions." I'll skip over C for now, but go
8 to D:

9 "As housing becomes available and by no
10 later than August 6th (indiscernible) of
11 August 8th ..."

12 Sorry, that's about five weeks just to --
13 "they shall remove all tents, structures, shelters,
14 objects," et cetera, et cetera.

15 And then E:

16 "For the purpose of ensuring compliance with
17 the order, the province is authorized to
18 remove or cause to be removed items that are
19 not claimed by any of the defendants."

20 So if you are a qualifying defendant, your
21 stuff, it looks like -- the intent is that it be
22 looked after, that you be transitioned to other
23 facilities. But if not, other materials can be
24 disposed of. And, of course, if there's a violation
25 of a fire commissioner's order, that would also have

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1 its own consequences.

2 So were you generally aware of the terms of
3 this order when the encampment was dismantled?

4 A. Yes, I was, generally.

5 91. Q. Okay. And I appreciate that from your
6 position you, would not have liked to see this happen
7 but you were aware of the terms of this.

8 And if we can go back to C, you're also
9 aware that as part of it the province was permitted to
10 prevent any new occupants or residents from coming
11 into the encampment so it could be dismantled over
12 time. And you are aware of that as well?

13 A. Yes. And, in fact, there is now a
14 playground there.

15 92. Q. Okay. So, I mean, just looking at the
16 things that were done here, there does look like there
17 is a provision of different types of shelter to those
18 who were resident as of the day of the order. And
19 you'd agree that that part is appropriate, right?

20 A. Actually, I would say the -- the fact
21 that the -- and I'm just going to explain the decision
22 as I understand it ---

23 93. Q. Sure.

24 A. --- was that they couldn't simply be
25 displaced in -- with this decision, there had to be

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1 some sort of housing available to them. And is it
2 possible to just scroll back up in the judgment where
3 it lists the three options for individuals?

4 94. Q. Sure. That would be back at paragraph
5 2.

6 A. So the choice is transitional home,
7 which was a new reclaimed space that had previously
8 been a youth detention centre came available and that
9 was, as noted here, offered to individuals. A concern
10 that was raised is that many individuals have
11 themselves spent youth in detention and to be in a
12 former detention centre or some had experiences with
13 other types of situations as youth, that this was not
14 considered an appropriate -- it's also a location that
15 is quite far from the services that many of them would
16 have been available and I'm speaking there about
17 health services, food banks, those kinds of -- of
18 things. So that's the first one.

19 The second one, the central care home, had
20 been a decommissioned senior's building that had not
21 been operating for a number of years. And I honestly
22 don't know what -- what the plans were for it, but
23 it'd been sitting empty for some time. And I would
24 point out, of note, that the fire alarm system wasn't
25 working properly. The stairwells were locked in that

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1 building. There were some grave concerns about the --
2 and I'll just quickly reference here the seven
3 criteria of adequate housing.

4 So there was concerns about the ---

5 95. Q. Dr. Pauly?

6 A. Yes?

7 96. Q. I don't think we need to get dragged
8 into the weeds of the particular choices there because
9 these are not the choices that are at issue in our
10 case. Especially because, while you may not have
11 agreed with it, the court actually did endorse the
12 closure of this encampment with the transitioning of
13 the residents to one of these three options.

14 MS. MULLEN: (Indiscernible).

15 MR. LOKAN: I'm just saying that that's what
16 the court endorsed.

17 MS. MULLEN: You're asking for her opinion
18 about what was offered to the residents and
19 what the court endorsed. She should be
20 allowed to provide her opinion on the
21 options.

22
23 BY MR. LOKAN:

24 97. Q. My question was if there are options
25 that are offered and there's a choice of options that

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1 see people placed in choices appropriate for them,
2 then you don't -- you wouldn't say that it's wrong, in
3 principle, to transition people out of an encampment,
4 would you?

5 A. If there are options that are -- meet
6 the seven criteria for adequate housing which include
7 permanency ---

8 98. Q. I know you want to (indiscernible) ---

9 A. --- (indiscernible) and so on.

10 99. Q. --- criteria, and those I take it are
11 from a document in the national housing strategy. Is
12 that right?

13 A. That's correct, yes. The *National*
14 *Housing Strategy Act*, the seven criteria. So my ---

15 100. Q. (Indiscernible) the *National Housing*
16 *Strategy Act*, the long and the short of it is that
17 these three ones you thought were inadequate.

18 A. These three ones didn't -- correct.
19 These three ones did not meet those criteria.

20 I think, just to your question -- I really
21 want to make sure I answer your question because I
22 think it's choices that meet those criteria but are
23 also suitable for individuals, and so, for example,
24 offering someone a place in another city -- maybe
25 that's suitable for some but not for all. So I think

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1 I just want to raise the suitability of the options,
2 not that there's simply options.

3 101. Q. Okay. But you would like to see that
4 they are no worse than the encampment environment.

5 A. I would like to see them meet the
6 criteria for adequate housing.

7 102. Q. Okay. So you may have disagreed with
8 the judge and what the judge did in that particular
9 case in terms of the options, but going back to
10 paragraph 86 in the terms, I think you've agreed with
11 me that storage of belongings is an important thing
12 that you want to do. And ...

13 A. If -- regarding storage of belongings,
14 if someone is being moved into an adequate option, I
15 do not see the need for storage because, for example,
16 things can be packed up and the person moved with
17 their belongings, as -- which cuts out the need for
18 storage and actually reduces a lot of the -- not only
19 cost, but time and energy on the behalf of everyone
20 involved.

21 103. Q. So if there's permanent housing
22 available, it may not be necessary. But in that case,
23 you would need assistance with transportation of
24 belongings, right?

25 A. Yes, that's correct. And if I may say,

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1 to not limit. So in some scenarios, people are told
2 you can have two totes or three totes, but I think we
3 need to respect just as all of us would want respect
4 for our possessions.

5 104. Q. Okay. You also, I take it, would agree
6 with the proposition that if you're going to close an
7 encampment and transition people away from an
8 encampment, you would want to give plenty of notice?

9 A. I would say the first thing would be to
10 ensure there's a relationship with -- I would follow
11 the national protocol for encampments as a process.
12 It's not simply giving people notice but, yes, time
13 and attention to the national protocol, which outlines
14 the involvement of people in the encampment in those
15 decisions.

16 105. Q. So how much notice do you think a
17 population at an encampment should have of when the
18 eventual closure date would be?

19 A. Enough time to ensure that suitable
20 permanent options are available.

21 106. Q. So only when they're permanent?

22 A. Based on the best evidence, or -- I --
23 or I would add if someone is offered an option such as
24 a transitional housing and they see that as a viable
25 option, that would make sense. So individuals --

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1 that's the reason why I speak to the national protocol
2 for encampments and the importance of individuals
3 being involved in those choices and the options that
4 are offered.

5 107. Q. Okay. So you want to see people
6 involved in their own options and if they can't be put
7 in permanent housing, that would be okay as long as
8 they agreed? Does that summarizes what you just
9 explained to me?

10 A. If they agreed and they weren't being
11 forced.

12 108. Q. Okay. So it's never okay to force
13 somebody to go anywhere other than permanent housing
14 if you have to close an encampment?

15 A. I mean, I think it's a -- you know,
16 we're getting into tricky grounds around it.

17 109. Q. We most certainly are, yes.

18 A. Around enforcement, we see enforcement
19 happen in many different ways, so I'm not sure if you
20 can clarify or maybe restate or expand the question
21 you'd like me to answer here.

22 110. Q. So I think what I'd asked you is, in
23 your view, it's never okay to force someone to leave
24 an encampment if they don't agree to leave the
25 encampment. Is that correct?

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1 A. Individuals should have a say in the
2 options that are available to them, and they should be
3 able to exercise choice ---

4 111. Q. Yes.

5 A. --- in choosing the place to which they
6 are accommodated. And ---

7 112. Q. And if they don't want any of them, the
8 encampment just should never be closed? Is that what
9 you're telling us?

10 A. You know, it's interesting. I really
11 appreciate your question because I think there's not a
12 good understanding, necessarily, of why someone would
13 refuse the options available to them. And it, you
14 know, it could be a variety of reasons but the one I
15 want to point to is a lack of trust.

16 You know, people in encampments may have had
17 difficult life experiences with systems through their
18 whole life, whether it's been school systems, legal
19 systems, healthcare systems, where they've faced a lot
20 of challenges. And so it does take time for people.
21 And, you know, there's various strategies such as
22 allowing people to see, for example, the options that
23 are available, making sure they have all the
24 information, and working with someone. Because I --
25 you know, I think under the housing first philosophy

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1 it is -- and it is very much that housing is something
2 that everyone should have. It isn't -- it's a right,
3 so ---

4 113. Q. No, I understand your point of view on
5 that, and we have some questions around that as well.
6 But just going back to what you said.

7 So you would recommend if people -- if an
8 encampment has to close and people have to be
9 transitioned, you recommend that they are able to
10 spend a lot of time, for example, with an outreach
11 team. That people can work with them over time to
12 earn their trust, to explain their options, get them
13 comfortable with their options, and hopefully get them
14 to a place where they choose one of them?

15 A. Yes.

16 114. Q. Is that fair? Okay.

17 A. Yes, that's fair.

18 115. Q. And from your point of view, that's a
19 process that, ideally, should take place over, what,
20 several months?

21 A. Yes. I don't know that I can quantify
22 a time for some individuals.

23 116. Q. Okay. So for some really -- I mean, we
24 know that encampments, the needs of the occupants can
25 vary greatly and there can be some people who are

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1 extremely difficult to accommodate in another setting.
2 Is that fair? There can be very high-need
3 individuals.

4 A. I think it's fair to say that settings
5 may not be prepared to meet the needs of everyone.

6 117. Q. Right. And so, I mean, given that in
7 an ideal world, permanent housing for everyone. But
8 in the circumstances where an encampment has to close,
9 sooner or later, and you may have some high-need
10 individuals, are you telling me that even if it takes
11 a year or two to get their trust and get them
12 comfortable with one of the options you should take
13 that year or two?

14 A. I think you have to take the time it
15 needs. And I just want to raise another thing ---

16 118. Q. Even if it's three years?

17 A. If an encampment is closed, I just want
18 to spell a little trajectory out. So if an encampment
19 is closed as you're outlining ---

20 119. Q. Yes.

21 A. --- and some individuals, and hopefully
22 all of them move into a form of adequate housing, you
23 know, there are some individuals who, yes, it will
24 take longer. And if they're not housed appropriately,
25 they will simply end up back on the streets and be in

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1 another location and it becomes kind of a constant
2 cycling which is very negative where people are
3 cycling from the streets and through hospitals and
4 jails and shelters, you know. And this, we've
5 documented this and other examples where they're not
6 getting the proper care and services that they need.

7 120. Q. Right. And so if it might take not
8 just months but years and it may not always work, and
9 somebody might find themselves back into the unhoused
10 population, would you agree that if you're required to
11 close an encampment, there's going to come a point
12 when you're just going to have to say, "We can't allow
13 new occupants to establish themselves because we
14 really have to work with the existing population to
15 get everybody placed however long it takes." Would
16 you agree with that?

17 A. No, because it's extremely problematic.
18 What you're describing is that individuals who are
19 homeless and in need of housing ---

20 121. Q. Yes.

21 A. --- although they are not residing in
22 this specific encampment, also need that housing as
23 well. So I'm not sure what kind of mechanism or
24 system ...

25 122. Q. You can only close one encampment if

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1 you can meet the needs of the entire unhoused
2 population. Is that what you're telling me?

3 A. I would -- in your -- in any region,
4 there are people who are living in an encampment and
5 there are people who are living unsheltered. So
6 encampments are a form of unsheltered living, as you
7 well know.

8 123. Q. Yes.

9 A. So in -- maybe you can clarify. When
10 you say, "Closing an encampment," closed to support
11 and services, closed in terms of the actual space ---

12 124. Q. The actual site must be used for
13 something else. And I'm not asking you for your
14 opinion on whether this site must or must not be used
15 for something else.

16 But you're probably aware that the reason
17 for this case is that the region has advised that it
18 requires this property to construct a transit system.
19 So, again, not asking you for your opinion on whether
20 that's true or not, that's for others. But I would
21 like you to make the assumption that this encampment
22 must come to an end, and it's all about -- my
23 questions are all about how you go about doing it.

24 A. Mm-hmm.

25 125. Q. And so what I have from you so far is

B. Pauly (Cr.-Ex.) - 43

1 that you would want to have a team of people offering
2 supports and earning the trust of the residents, able
3 to help them understand their options and transition
4 them out. I also have from you that it will take --
5 could take months. And for some it could take longer
6 than that.

7 And then my next question which we're having
8 a bit of difficulty with is, wouldn't it also follow
9 that you would need to be able to prevent newcomers
10 from coming in and becoming established during that
11 period or you'll never be able to wind down the camp.
12 You'll always have the problem of people facing trauma
13 because they came in shortly before the closure.
14 Isn't that fair?

15 A. I think the situation that you've
16 described is accurate, that there may be newcomers
17 entering into the site. And I think that is, you
18 know, as a -- so I am here as an expert witness, as a
19 researcher.

20 126. Q. Yes.

21 A. and so on that point, then, it would be
22 that individuals in the community have access to
23 resources and supports to be able to access evidence-
24 based housing first options. So ---

25 127. Q. So -- so you ---

B. Pauly (Cr.-Ex.) - 44

1 A. I can't speak to the municipality's
2 decision as to what they need to do with the space.

3 128. Q. Okay. No, I'm not asking you to speak
4 to that. I'm just asking you to assume that the space
5 is needed for something else.

6 So this isn't just any old park or any old
7 property, this is one where the region needs it for
8 specific use at a specific time. And so I think I
9 understood from your answer, what you're saying is the
10 only way you can do that is if you, at the same time,
11 make sure that you have adequate housing for the rest
12 of the unhoused population in the region. Is that
13 what you've told me?

14 A. As an evidence-based response, assuming
15 that if we're talking about individuals who are coming
16 to that encampment -- because some may never come,
17 right?

18 129. Q. Yes, but what I put to you was that,
19 really, you would have to restrict new entrants if you
20 were going to be able to have an orderly wind-down of
21 the encampment. And I said wouldn't you agree with me
22 on that, and I think you disagree.

23 MS. MULLEN: Andrew, I think she's provided
24 her answer twice now.

25 MR. LOKAN: I don't think so, because I'm

B. Pauly (Cr.-Ex.) - 45

1 still confused.

2 THE WITNESS: Is it okay if I just restate?

3
4 BY MR. LOKAN:

5 130. Q. Sure.

6 A. If new people come to the site in the
7 period of time for the closure, evidence would -- as a
8 scientist, as a researcher, the evidence would say
9 they need access to resources and supports to also
10 gain access to permanent housing.

11 131. Q. The evidence would say that every
12 single unhoused person in the region should have
13 access to those supports and to permanent housing.
14 Isn't that the case?

15 A. That's true. And I think ---

16 132. Q. So here's the ---

17 A. --- you're speaking only about
18 individuals who may come to the encampment.

19 133. Q. Right, but if you have an encampment
20 that, for example, the court may or may not accept but
21 the court may accept that the encampment needs to be
22 closed as of a certain date, wouldn't it also follow
23 that as of a certain point, maybe not today but maybe
24 a few months before, you would need to restrict new
25 entrants from becoming established at the encampments?

B. Pauly (Cr.-Ex.) - 46

1 Because that process of finding options and earning
2 trust and transitioning out, there's just not going to
3 be time, is there?

4 A. I'm not -- unfortunately I'm not a
5 municipal policy maker. This is a practical -- I
6 definitely agree, this is a practical issue.

7 134. Q. Yes.

8 A. I'm speaking as a researcher and the
9 need for mechanisms for individuals to access support
10 and transition to adequate housing.

11 135. Q. Right. So you would say -- you will
12 not agree with me that the -- in a practical sense,
13 the region may have to restrict new entrants if it is
14 to be able to close the encampment by a certain date.

15 A. That's correct.

16 136. Q. Okay. Have you ever seen an encampment
17 closure that you thought was done adequately?

18 A. No.

19 137. Q. Okay. Could I ask you to look at
20 paragraph 27 of your affidavit?

21 A. Yes.

22 138. Q. Now I referred earlier to there
23 possibly being a misunderstanding that the region, in
24 fact, endorsing housing first and we had an exchange
25 about how sometimes there is not enough resources,

B. Pauly (Cr.-Ex.) - 47

1 what that can mean. But what I see you say in the
2 middle of the paragraph is you say, "While this is
3 still a common belief among housing providers and
4 policymakers in North America," and that is sort of a
5 housing readiness approach that you're not ready for a
6 permanent until you've been through some other stages.
7 "While this is still a common belief," you say, "it's
8 inconsistent with human rights and evidence. And then
9 you say, "In Canada, there's a legislative right to
10 housing." Do you see that?

11 A. Yes.

12 139. Q. Okay. So you're not yourself a lawyer
13 or legally trained, are you?

14 A. I am not.

15 140. Q. Okay. And you wouldn't hold yourself
16 out as a human rights lawyer or a constitutional
17 lawyer?

18 A. No, I am not.

19 141. Q. Okay. So you wouldn't claim any
20 expertise in, for example, the division of powers
21 between the federal and provincial governments?

22 A. As a researcher who works on issues
23 related to housing and homelessness, I have an
24 understanding of the roles and responsibilities of the
25 federal and provincial governments as it relates to

B. Pauly (Cr.-Ex.) - 48

1 housing and also healthcare, but that's not of
2 relevance so much here.

3 142. Q. Right, but you don't have any
4 understanding of the legal obligations.

5 A. The -- and I will clarify when I say,
6 "The legislated right," and you'll see what I've
7 referenced is the *National Housing Strategy Act* ---

8 143. Q. Yes.

9 A. And so I'm referencing an Act ---

10 144. Q. Yes.

11 A. --- which is part of the federal
12 government -- lays out the federal government role,
13 position, responsibilities.

14 145. Q. Right, binding on the federal
15 government.

16 A. That's binding on the federal
17 government. And there's been researchers who have
18 articulated the role of municipalities relative to
19 that.

20 146. Q. Right, and they would be basically
21 zero.

22 A. They ---

23 147. Q. Are these legal scholars you're talking
24 about?

25 A. These are housing scholars. So I take

B. Pauly (Cr.-Ex.) - 49

1 ---

2 148. Q. Not legal scholars?

3 A. I take your point in terms of
4 legislative rights to municipalities, however you,
5 yourself, had said, and it's not uncommon for
6 municipalities across the country to say, "We endorse
7 the right to housing," and they embrace that within
8 their either philosophy or position statements and so
9 on. So they're not naïve to the importance of the
10 right to housing.

11 149. Q. Right, if it is a right at all.

12 A. It's laid out as a right in a number of
13 U.N. documents to which Canada is a signatory as well
14 as in the *Housing Strategy Act*.

15 150. Q. There's the international rights aspect
16 of that and an international human rights lawyer with
17 that expertise may be able to speak to that, but
18 that's not you, correct?

19 A. It is not.

20 151. Q. Okay. And you're aware that the
21 national *Housing Strategy Act* says that it's the
22 housing policy of the Government of Canada that
23 there's a national right to housing.

24 A. Yes.

25 152. Q. Thank you. And so that's the federal

B. Pauly (Cr.-Ex.) - 50

1 government, it's not any other body.

2 A. Correct.

3 152. Q. Okay. Would you agree that if the
4 federal government declares it to be a national right
5 -- there to be national right to housing, the federal
6 government should be providing the resources to
7 implement that right?

8 A. This is very much an important
9 question, and I think you're probably aware of the
10 changes in funding to provincial governments. And you
11 have pointed to the crux of a huge issue, which is
12 the, you know, fact that it's a responsibility of
13 provincial and -- primarily provincial governments to
14 -- sorry, I should clarify the federal government in
15 those changes has down-loaded the responsibility onto
16 provinces and I think that's a matter of, yes,
17 resources. It doesn't give municipalities and
18 provinces necessarily the right to displace people or
19 to say, "We don't have housing available," because
20 they have, as we've already discussed, themselves,
21 embraced a right to housing.

22 153. Q. Whatever is meant and in whatever
23 circumstances that may have been said. What I'm
24 asking about is just more simple. If the federal
25 government declares it to be a right throughout Canada

B. Pauly (Cr.-Ex.) - 51

1 to have housing, as you pointed to in your affidavit,
2 don't you think the federal government should be
3 providing the resources to implement that right?

4 A. It's a combined responsibility between
5 three levels of government.

6 154. Q. So if there's a shortfall, then she
7 federal government should be increasing its resources
8 that it dedicates to housing?

9 A. I'm not -- I think what you're asking
10 me about is the role of the federal government, and
11 I'm ---

12 155. Q. I'm asking you whether the federal
13 government, in your view, should be increasing the
14 amount of money that it's devoting to housing, to
15 address the housing -- the homelessness crisis.

16 A. I would agree, but it doesn't give
17 provinces and municipalities no responsibilities, to
18 be clear.

19 156. Q. I just asked the question of should
20 they be increasing and you said yes, as I understood
21 you.

22 A. Yes, and it doesn't denigrate the
23 responsibilities of municipalities and provinces.

24 157. Q. Can we go to the paper at exhibit B?

25 MS. MULLEN: Andrew, I'm just wondering,

B. Pauly (Cr.-Ex.) - 52

1 we've been at this for an hour. I'm
2 wondering if, Dr. Pauly, would you like to
3 take a break? How much longer do you think
4 you'll be?

5 MR. LOKAN: I don't expect to be very much
6 longer, but ...

7 MS. MULLEN: Okay.

8 MS. PAULY: Yes. I'm okay, thanks.

9
10 BY MR. LOKAN:

11 158. Q. So at exhibit B, you have a paper that
12 you co-wrote, "Forced to Become a Community."

13 A. Yes, correct.

14 159. Q. And I'm just looking at -- we can
15 probably pull this up if you want to see it, but it's
16 a short passage. The second page of your article, you
17 say:

18 "Homelessness arises from a complex
19 interplay of multiple structural,
20 systemic, and individual factors."

21 That's on the bottom ---

22 A. Yes.

23 160. Q. You would agree with me that
24 homelessness is a complex problem?

25 A. Yes, it's a complex public health

B. Pauly (Cr.-Ex.) - 53

1 problem.

2 161. Q. And that the solutions to homelessness
3 are also complex?

4 A. I think that's where it gets
5 interesting because, you know, we try to understand
6 the causes of homelessness which is -- which are
7 complex and varied, and I think the evidence around
8 solutions and the pathways out are less -- are much --
9 are not as complex because they are housing plus
10 supports.

11 162. Q. So as long as you have enough money to
12 get permanent housing and appropriate supports, the
13 problem could be solved. Is that the gist of what
14 you've told me?

15 A. I would agree with that, yes.

16 163. Q. Okay.

17 A. And the political will to do those
18 things, but that's apart from this.

19 164. Q. Okay. Later on, over the next page,
20 you said:

21 "Homelessness can be understood as a
22 consequence of multiple policy
23 decisions at every level of
24 government."

25 And I think you've accepted that it's a

B. Pauly (Cr.-Ex.) - 54

1 responsibility of every level of government to address
2 homelessness?

3 A. Yes.

4 165. Q. Okay. You say on the same page, page
5 126, middle of the right-hand column, "There has been
6 limited Canadian research on encampments."

7 A. At the time of writing this, that was
8 true.

9 166. Q. But this was from 2023, this article,
10 right?

11 A. It was 2023, but it was -- yes, that's
12 correct. It was 2023. But there's been work
13 published since then.

14 167. Q. There's some work ---

15 A. Yes.

16 168. Q. --- published since then.

17 A. Yes.

18 169. Q. It's still generally limited though,
19 isn't it?

20 A. I would say comparatively speaking to
21 the U.S., we are -- absolutely have less on the
22 impacts of those. The Centre for Urban Health in
23 Toronto would be an example of a centre that's done
24 research on encampments.

25 170. Q. Okay. If we go to page 127, you have a

B. Pauly (Cr.-Ex.) - 55

1 description of what the methodology was here.

2 A. Mm-hmm.

3 171. Q. So you say:

4 "For this paper, we conducted a
5 secondary analysis of legal affidavits
6 using a thematic analysis approach as
7 outlined by (indiscernible) to
8 identify, analyze, and report patterns
9 with the data. The data set was
10 comprised of 47 affidavits taken from
11 33 people of Super In Tent City, SIC,"

12 And that's essentially 30 residents and one
13 part-time resident.

14 A. Correct.

15 172. Q. Okay. And that's the -- this is the
16 same case as the *Adamson* case we were referring to
17 earlier, is it?

18 A. Yes.

19 173. Q. Okay. So these are the affidavits
20 submitted for that case by residents of the encampment
21 plus a couple of other people, correct?

22 A. Yes, correct.

23 174. Q. And under limitations, you have on page
24 131 -- you mention as a limitation that:

25 "The data for this paper were drawn

B. Pauly (Cr.-Ex.) - 56

1 from affidavits whose original purpose
2 was to inform the courts about the
3 experience of residents living in the
4 encampments and the benefits afforded
5 over other potential but unavailable
6 spaces. Thus, the affidavits have the
7 limitation of not specifically
8 addressing or highlighting challenges
9 associated with living in encampments
10 as the focus of the affidavits was to
11 speak against an injunction to displace
12 the camp."

13 So you saw as a limitation, as a research
14 instrument, the fact that these were affidavits
15 designed to resist an injunction, correct?

16 A. Yes, and as a researcher, I am
17 transparent about the purpose for what the data was
18 collected. People did speak to the challenges of
19 living in the encampment, however had I asked them
20 directly, you know, what are the challenges, they may
21 well have told me many more things. So, yes, that is
22 an appropriate limitation as a ---

23 175. Q. As a researcher?

24 A. As a researcher and to ensure
25 transparency in your work.

B. Pauly (Cr.-Ex.) - 57

1 176. Q. Right. And I take it that these
2 affidavits were prepared with the assistance of
3 lawyers?

4 A. As -- to my knowledge, yes.

5 177. Q. I mean, they'd need to be, right?
6 Because there are many in an encampment who find it
7 difficult to create written documents.

8 A. Yes. Yes, of course.

9 178. Q. Right. And so they may have included,
10 would you agree, an element of advocacy?

11 A. I think ---

12 179. Q. Arguing against a result? I'm not
13 saying there's anything wrong with that, but that they
14 may have included that.

15 A. I think, you know, I think your
16 question is really important and I want to be
17 thoughtful in my answer because sometimes I hear the
18 word "advocacy" used as if it's a bad thing. I think
19 in this scenario, individuals were living in a
20 situation where they had formed a community that was
21 providing an alternative when none others were
22 available. And so they were speaking to their
23 experiences in terms of the options, the systemic
24 situations and the options that were best for them.
25 And I guess you can call that advocacy, but they were

B. Pauly (Cr.-Ex.) - 58

1 speaking to their experiences in that -- in that
2 sense, and the reality of what was available to them.

3 180. Q. And these particular affiants were
4 opposing the injunction?

5 A. Yes, correct, because it was not in
6 line with -- they did -- and, remember, they did not
7 have options available to them. You'll notice the,
8 you know, one of the findings of this was that the
9 encampment was a last resort.

10 181. Q. Yes. Yes. And on page 134, you
11 actually criticize the decision of -- you and your co-
12 author of the Chief Justice, Chief Justice Hinkson in
13 allowing the injunction on the second round. You
14 refer to *British Columbia v. Adamson*, "Adamson of
15 BCSC-1245."

16 A. I wonder if you can just scroll to
17 where that sentence is ...?

18 182. Q. Yes.

19 A. So I'm sure that I know what you're --
20 there we go. Thank you so much.

21 183. Q. Instead of reading public health
22 arguments.

23 A. Sorry, it just jumped again.

24 184. Q. Yes. We wanted to make it a bit bigger
25 for you.

B. Pauly (Cr.-Ex.) - 59

1 A. Yes. There we go.

2 185. Q. So I just wanted to confirm that
3 *Adamson BCSC-1245*, that's a reference to the second
4 decision that granted the injunction on terms?

5 A. Yes.

6 186. Q. And it's fair to say that you were
7 critical of that as outlined in the article?

8 A. Yes, to -- for, exactly, based on the,
9 you know, the discussion that we've had here today
10 about the options being suitable and available for the
11 needs of the individuals.

12 187. Q. Okay. I'm going to ask that we take a
13 five-minute break now and go off the record.

14
15 --- OFF THE RECORD

16
17 MR. LOKAN: I have no further questions.

18 MS. MULLEN: May I just have another five
19 minutes, then, to prepare redirect, if any?

20 MR. LOKAN: Sure.

21
22 --- OFF THE RECORD

23
24 MS. MULLEN: Hi, again. Good afternoon. I
25 just have, I think, one very brief question

B. Pauly (Cr.-Ex.) - 60

1 for redirect, if we're back on the record,
2 Barbara?

3 MS. POLLARD: We're back on.

4
5 RE-EXAMINATION BY MS. MULLEN:

6 188. Q. All right. So, Dr. Pauly, you were
7 asked about the evidence under the Fraser Port
8 Authority case. How is the evidence in this matter
9 different from that previous affidavit? You're muted,
10 Dr. Pauly.

11 A. Sorry, just to clarify, you're speaking
12 about the evidence that I've submitted?

13 189. Q. That's right. For this matter.

14 A. I would say one of the differences is
15 there's been an evolution of -- maybe, "evolution"
16 isn't the right word, but there's been additional
17 research that's been published on -- particularly on
18 the harms of displacement and I would say a growing of
19 the evidence on housing first. So the affidavit that
20 I prepared for this case would have more recent
21 evidence.

22 MS. MULLEN: All right. Those are all of my
23 questions. Thank you.

24
25 --- ADJOURNED

B. Pauly (Cr.-Ex.) - 61

THIS IS TO CERTIFY that the foregoing
is a true and accurate transcription of
my recordings and notes, to the best of
my skill and ability.



Barbara A. Pollard
Certified Court Reporter

Photostatic copies of this transcript are not
certified and have not been paid for unless they bear
the original signature of Barbara A. Pollard, C.C.R.,
and accordingly are in direct violation of Ontario
Regulation 587/91, Courts of Justice Act, January 1,
1990.

TAB 18

Court File No. CV-25-00000750-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

THE REGIONAL MUNICIPALITY OF WATERLOO

Applicant

and

PERSONS UNKNOWN AND TO BE ASCERTAINED

Respondents

APPLICATION UNDER Rule 14.05 of the *Rules of Civil Procedure*

This is the Cross-Examination of **Dr. Sahil Gupta** on his affidavit dated August 15, 2025, taken via Zoom videoconference on consent of the parties on January 7, 2026.

APPEARANCES:

KARTIGA THAVARAJ, Ms. Counsel for the Applicant
GRETA HOAKEN, Ms.

ASHLEY SCHUITEMA, Ms. Counsel for the Respondents
JOANNA MULLEN, Ms.
CHARLOTTE CAHIL, Ms. Student-at-Law

MERCEDES PEREZ, Ms. Amicus Curiae

(i)

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JANUARY 7, 2026

DR. SAHIL GUPTA, AFFIRMED

CROSS-EXAMINATION BY MS. THAVARAJ:

1. Q. Good morning, Dr. Gupta.

A. Hi there.

2. Q. My name is Kartiga Thavaraj. I am the lawyer for the Region. I am here with my colleague, Greta Hoaken, who you will see on the screen as well.

A. Hi, both.

3. Q. Thank you for taking the time this morning. I take it you are aware that this is a cross-examination on your affidavit tendered in this matter dated August 15th, 2025?

A. That's correct.

4. Q. Okay. And you have been an expert witness before and curator for a witness before. So this is likely just a refresher, but just a few ground rules before we start. If there is anything that you don't understand, please just ask me to repeat it or rephrase.

A. Okay, that sounds good.

5. Q. Perfect. Do you -- looking at that nod, you have to answer "yes" or "no" or whatever you need to answer verbally for the purposes of the

S. Gupta (Cr.-Ex.) - 4

1 transcript. Barbara is taking very diligent notes.

2 A. Understood.

3 6. Q. And we should try to avoid speaking
4 over each other where possible.

5 A. Understood.

6 7. Q. Thank you. Is your affidavit in front
7 of you today?

8 A. It is.

9 8. Q. Okay, and is there anything else in
10 front of you?

11 A. Just this kind of a notebook to make
12 some notes as needed.

13 9. Q. Okay. I briefly saw one that came on
14 the screen that there were already some notes on it.
15 So you're not allowed to have notes with you going
16 into the examination. And then you should also know
17 that if you take notes during the examination, I am
18 entitled to request production of those notes. Okay?

19 A. Sounds good, thank you.

20 10. Q. So you can have your affidavit with you
21 currently but nothing else, at least in terms of
22 nothing else that's already pre-prepared.

23 A. Yeah, that sounds good.

24 11. Q. And you reviewed or re-reviewed your
25 affidavit prior to testifying today?

S. Gupta (Cr.-Ex.) - 5

1 A. I did.

2 12. Q. Okay. And are you familiar with an
3 affiant named Peter Sweeney in this case?

4 A. I am not.

5 13. Q. Okay. Are you familiar with an
6 affiant, Dr. Sharon Koivu?

7 A. I know about Dr. Koivu.

8 14. Q. Okay.

9 A. But I am not personally familiar with
10 her.

11 15. Q. Have you read Dr. Koivu's expert report
12 of this case?

13 A. I have read her expert report on this
14 case.

15 16. Q. Okay. Thank you. And you, yourself,
16 are being tendered by WRCLS as an expert, correct?

17 A. I am.

18 17. Q. I am going to take you, sir, to your
19 Form 53 that you signed in this matter. And Ms.
20 Hoaken is just bringing it up on the screen.

21
22 --- SCREENSHARE

23
24 18. Q. Please let us know at any point as
25 well, by the way, if there are any tech issues. Those

S. Gupta (Cr.-Ex.) - 6

1 tend to happen in the Zoom world.

2 A. I see the screen being pulled up there.

3 19. Q. And you see the document that says
4 "Acknowledgment of Expert's Duty?"

5 A. That's correct.

6 20. Q. And I can -- I will ---

7 MS. SCHUIITEMA: Sorry. We can see the other
8 tabs. Like I don't know if that's a problem
9 for you, or the bookmarks?

10 MS. THAVARAJ: No issue, but thank you for
11 letting us know, Ashley.

12
13 BY MS. THAVARAJ:

14 21. Q. We'll have you just focus, Dr. Gupta,
15 just on the actual body of the document. We're taking
16 you now to the second page. Is that your signature?

17 A. That is.

18 22. Q. Okay, and you agree that it is your
19 duty to provide evidence that is fair, objective and
20 non-partisan, correct?

21 A. That's correct.

22 23. Q. And within your area of expertise,
23 correct?

24 A. Within my area of expertise only.

25 24. Q. Okay. And that this duty prevails over

S. Gupta (Cr.-Ex.) - 7

1 any obligation you may owe to any party who engages
2 you in this case, WRCLS. You agree?

3 A. That's correct.

4 25. Q. Okay. And like I said, this is not the
5 first time you've been an expert so you're fairly
6 familiar with these rules?

7 A. That's correct.

8 26. Q. Thank you, we can take this down. Now,
9 Dr. Gupta, you've identified your expertise in your
10 affidavit. I'll call it an affidavit; it's your
11 expert report for these purposes. You've identified
12 it at Paragraph 3 and the scope you've identified is:

13 "... The health risks associated with
14 living unsheltered; barriers patients
15 face in accessing emergency shelter;
16 the health benefits to having some form
17 of shelter; harms associated with
18 evictions and displacements, and any
19 relative advantages to living in an
20 encampment ..."

21 Is that correct?

22 A. That's right.

23 27. Q. Okay. Now before we turn to those
24 topics, I wanted to confirm you are not personally
25 aware of the specific circumstances at the encampment

S. Gupta (Cr.-Ex.) - 8

1 at 100 Victoria Street North in Kitchener, correct?

2 A. Not personally aware of the Kitchener
3 encampment circumstances.

4 28. Q. Okay. You have never treated any of
5 the residents of that encampment?

6 A. I have never treated any of the
7 residents of that particular encampment.

8 29. Q. Okay, and you have not reviewed any of
9 their medical records, for example?

10 A. I have not reviewed any of their
11 medical records.

12 30. Q. You haven't visited the encampment?

13 A. I have not visited that particular
14 encampment.

15 31. Q. Okay. And you haven't spoken to any
16 person residing in or occupying that encampment?

17 A. I have not spoken to anybody in that
18 encampment.

19 32. Q. Okay. Now if you will allow me one
20 other preliminary point before we get started. I need
21 to have a little bit of a semantic discussion with you
22 to ensure we're speaking the same language, so to
23 speak. Because there are a lot of similar words in
24 your affidavit and in the literature and I want to
25 ensure that during this examination we're speaking

S. Gupta (Cr.-Ex.) - 9

1 precisely. Is that okay?

2 A. Yeah.

3 33. Q. Okay. And just so you know, when you
4 cover your hand with your mouth -- she hasn't raised a
5 concern so she will let you know -- but it may make it
6 harder for Barbara to hear you for the transcript.
7 Just -- it's a very common tic, we all do it.

8 A. Yes.

9 34. Q. Okay.

10 A. Thank you for clarifying and pointing
11 that out (indiscernible).

12 35. Q. So firstly, when discussing
13 homelessness in general, of course, the word "shelter"
14 comes up a lot. And there's obviously a distinction
15 between what I'll call a location and an organization,
16 a place providing food and accommodations for the
17 homeless. And the concept of sort of seeking a
18 protective space. Do you understand what I mean when
19 I refer to that distinction?

20 A. Could you repeat that for me?

21 A. Sure. So the use of the word
22 "shelter," I accept that in sort of common parlance
23 that can generally mean a place providing protection.
24 Do you agree, just a general place providing
25 protection?

S. Gupta (Cr.-Ex.) - 10

1 A. Yes.

2 36. Q. Okay. But in the context of
3 homelessness specifically, would you agree that the
4 word "shelter" generally means either a specific
5 organized shelter system? So they've been described
6 in many ways in the materials. But an emergency
7 shelter, a homelessness shelter, a particular
8 location, an organization that's -- that provides food
9 and accommodations for people experiencing
10 homelessness.

11 Do you understand that there's that
12 definition of "shelter", of the word "shelter?"

13 A. I understand there's kind of varying
14 definitions of the word "shelter." And -- and, you
15 know, across kind of the spectrum of homelessness,
16 shelter can mean different things for different
17 people.

18 37. Q. Sure. But if I refer to something as a
19 homeless shelter or an emergency shelter, for example
20 -- let's say I use "homeless shelter," will you
21 understand that to mean a specific organization,
22 location, that's organized for the purposes of
23 providing accommodation and food to the homeless?

24 A. I can understand that. And if I may,
25 kind of, there's many forms of shelter and you've

S. Gupta (Cr.-Ex.) - 11

1 already kind of referenced a few. And it may be
2 helpful to like during this discussion to understand
3 which one you're referencing. Like emergency shelter
4 which is a more permanent shelter versus transitional
5 shelter and so on which often helps determine kind of
6 the setting we're talking about more precisely.

7 38. Q. Yes, and actually we're going to get
8 into a longer discussion on this topic.

9 A. Perfect.

10 39. Q. But before we get there, I want to just
11 specify or at least let's see if we can agree on some
12 language to use around the concept of living -- and I
13 take your point about what the concept of -- the
14 larger concept of "shelter" means.

15 But I want to see if we can come to some
16 common language on the concept of someone living in a
17 physical space that is a permanent, physical building.
18 So not that the address is permanent for the person
19 but that the structure itself has a permanent roof and
20 walls.

21 If I say "living indoors" ---

22 A. Yes.

23 40. Q. --- will you understand it to mean that
24 description?

25 A. Yes. And just to clarify again, that I

S. Gupta (Cr.-Ex.) - 12

1 did not mean that I should disagree with your point.
2 I just meant more within the shelter just under just
3 so many different -- I think we're both referencing
4 the shelter system as something organized, you know,
5 by a public health authority or under government
6 authority or, you know, like a non-governmental
7 organization.

8 But within that, is kind of what I meant,
9 there's just so many different variations of it. But
10 kind of broadly-speaking, that concept of shelter I
11 agree with.

12 41. Q. Okay, so, thank you. That's very
13 helpful. So broadly-speaking, you do understand the
14 concept of shelter. I take your point that within
15 that concept, there are different types of shelters
16 that might be organized by a ---

17 A. Sure.

18 42. Q. --- municipality or other organization.
19 And then if I say, "living indoors," will you
20 understand that to mean living in a permanent,
21 physical structure?

22 A. Sorry, just also kind of nuance that
23 "living indoors" may also mean things like living in a
24 setting option known as "couch-surfing" where somebody
25 doesn't have permanence in the way they live but it is

S. Gupta (Cr.-Ex.) - 13

1 indoors. So it may kind of also be nuanced based on
2 that particular scenario in an individual's
3 circumstance.

4 43. Q. Okay. Let's say it includes that
5 definition though. Would that all fall within the
6 concept of "living indoors" for you? Having a ---

7 A. Sure.

8 44. Q. --- permanent -- and again by
9 "permanent," I mean, unfortunately, there are fewer
10 words in the English language to describe this. But a
11 roof and walls that is made of more permanent
12 materials, concrete and brick and other things.

13 A. Okay. Permanent and physical structure
14 not in the temporal -- yeah. And for a ---

15 45. Q. Okay.

16 A. --- physical structure. Absolutely,
17 yeah.

18 46. Q. Correct. Not that the address is
19 attached to that person permanently ---

20 A. Yeah.

21 47. Q. --- but that the structure itself is a
22 permanent one.

23 A. That's right, yeah.

24 48. Q. Okay, thank you. Yes, I understand and
25 that's why I wanted to do this at the outset. There's

S. Gupta (Cr.-Ex.) - 14

1 ---

2 A. Yeah, I know, thank you.

3 49. Q. --- linguistic, at least, frontiers in
4 this case. So that's what I mean when I am saying --
5 say, "living indoors" is living in a physical
6 structure that is permanent. Okay?

7 A. Okay.

8 50. Q. Okay. So turning to your affidavit,
9 when you use the word "unsheltered" in your affidavit
10 -- so to continue this discussion -- this includes
11 living in encampments, correct?

12 A. In this particular affidavit, you know,
13 and that is one of the points I actually wanted to
14 bring up a little bit.

15 Is there -- to me, especially after reading
16 Dr. Koivu's thing, I think, you know, there is a
17 spectrum of homelessness that sometimes is under-
18 appreciated in the literature, and in clinical
19 contexts, that we see day-in and day-out, that I just
20 wanted to kind of bring some attention to.

21 So, you know, there's a couple of points,
22 actually, in the affidavit where I may reference
23 "unsheltered" where I am actually mentioning where
24 somebody is actually living without any even -- like,
25 the -- as you mentioned, the term "permanent

S. Gupta (Cr.-Ex.) - 15

1 physically," but may be impermanent physically
2 setting. So whether that be an encampment, a tent,
3 you know, like a -- without any -- like, you know,
4 when I mentioned unsheltered there in a couple of
5 points in the affidavit, I may mean somebody without
6 any sort of, you know, barriers to the environment,
7 community, around them.

8 But, yeah, so I just wanted to actually
9 bring that up, we can discuss that further as needed.
10 But there is a differentiation that I make and comes
11 up in my clinical practice around people that, you
12 know, don't live in permanent physical structures.
13 But that differentiation based on kind of where they
14 live and where they conduct their day-to-day
15 activities.

16 51. Q. Okay, let me just make -- this is all
17 quite important, Dr. Gupta, so we're going to go
18 though it in some detail. Let me just make sure I
19 understood what you just said to provide the jumping-
20 off point for us.

21 So are you saying that at a couple of points
22 in your affidavit, when you use the word
23 "unsheltered," you are including somebody who lives in
24 an encampment versus other places in the affidavit
25 when you use the word "unsheltered," you may not be

S. Gupta (Cr.-Ex.) - 16

1 including someone that lives in an encampment?

2 A. I am just going to reference exactly.
3 There's two points in the affidavit specifically that
4 I wanted to bring attention to.

5 52. Q. Okay. And maybe I can help you as
6 well. I was going to take you first to Paragraph 9 of
7 your ---

8 A. Sure.

9 53. Q. --- affidavit.

10 A. Yeah.

11 54. Q. And maybe this is what you were going
12 to bring up. I was going to ask you -- I was going to
13 put it to you that when you use the word "unsheltered"
14 at Paragraph 9 of your affidavit, that includes people
15 who live in encampments. Would you agree?

16 A. I'm just ---

17 MS. SCHUIITEMA: So maybe you'll let him get
18 there for a second.

19 THE WITNESS: Yeah. If you wouldn't mind
20 actually even if you want to pull up the
21 affidavit and mention, like kind of go
22 through exactly which points?

23 MS. SCHUIITEMA: Sure. Sorry, when I take a
24 sip of my coffee, I get a thumbs up on the
25 -- across the screen. I don't know how to

S. Gupta (Cr.-Ex.) - 17

1 turn that off.

2 MS. THAVARAJ: Like I said, the Zoom world.

3
4 BY MS. THAVARAJ:

5 55. Q. So this is Paragraph 9 of your
6 affidavit, Dr. Gupta. And I am only raising it
7 because you said ---

8
9 --- SCREENSHARE

10
11 A. Yeah.

12 56. Q. --- that you had -- was this one of the
13 paragraphs that you said you sort of want to -- went
14 back and looked at Dr. Koivu's affidavit, you
15 reconsidered that maybe this paragraph -- or is this a
16 paragraph that you would say includes when you used
17 the word "unsheltered" in this paragraph that that
18 includes people living in encampments?

19 A. I'll just take a look. Yes, I would --
20 I specifically wanted to bring up one point after.
21 But, you know, in this particular paragraph, I am just
22 going to re-read it just for -- thank you for going
23 down for me, just one second.

24 Yeah, in -- yeah, in this particular
25 section, I would include people who are living in

S. Gupta (Cr.-Ex.) - 18

1 encampments and people who are not living in
2 encampments.

3 But, you know, one of the points, if I may
4 clarify, is that even within that there are some
5 trends that I comment on here. That are much
6 different for people that reside in a tent-based or,
7 you know, some sort of physical barrier structure than
8 there are -- and again, I kind of go back to that
9 continuum where if somebody has a tent or even non-
10 permanent shelter, they -- the described risks vary
11 based on what level of protection they have from the
12 elements, what level of community they may have around
13 them. And the exposure risk they have to the -- to
14 kind of the different circumstances around them.

15 So I do -- that's kind of what I wanted to
16 kind of just as we go through this more deeply. Is
17 that, yes, these risks often compare permanent to non-
18 permanent shelter.

19 But what's inadequately described especially
20 in a -- for -- you know, as part of my clinical
21 experience seeing these individuals, is the
22 differences that exist across the continuum for people
23 that, you know, are -- don't have any sort of
24 protection. Whether that be in the sense of community
25 and in the sense of -- yeah, any kind of non-permanent

S. Gupta (Cr.-Ex.) - 19

shelter barriers compared to people that do.

57. Q. Okay. Thank you, sir. I understand all that and we are going to get there. For the moment, I am going to ask you some very specific focused questions. And I am going to ask that you try to answer those questions just so that we can get through the examination as we need to.

A. Sure.

58. Q. So I just want to confirm, you said that this paragraph you would agree that it includes -- the definition or the comments made in this paragraph and the use of the word "unsheltered" includes both people living in encampments and people not living in encampments. Correct?

A. That's correct.

59. Q. Thank you. And that's because in the literature -- and you cite one that we will go to shortly -- encampments are often a form of unsheltered living. Correct?

A. Yeah, and many -- not all literature but some -- in some of the literature, in some of the literature that I quote, they don't, unfortunately, have the granularity to differentiate unsheltered environments in the studies that they do. Correct.

60. Q. Right. And so they don't have the

S. Gupta (Cr.-Ex.) - 20

1 granularity but they do put encampments within the
2 category of unsheltered?

3 A. And at some of the studies I quote,
4 correct. Not all.

5 61. Q. Thank you. We'll go to one of those
6 now. So you reference in your affidavit, a paper at
7 footnote 4, "Unsheltered homelessness and health: A
8 literature review" in the American Journal of
9 Preventative Medicine?

10 A. Correct.

11 62. Q. And you didn't author this paper, of
12 course?

13 A. I did not.

14 63. Q. But you have read it, I assume?

15 A. I have.

16 64. Q. And you didn't attach -- the paper
17 wasn't attached as an exhibit to your affidavit so we
18 didn't have it in the record. But we found it online.
19 Is this -- it's up on the screen currently in front of
20 you. Thank you, Ms. Hoaken.

21 Is this the same article as the article you
22 referenced in footnote 4 of your exhibit -- no, I'm
23 sorry, your affidavit?

24
25 --- SCREENSHARE

S. Gupta (Cr.-Ex.) - 21

1 A. Can you just go to the first page as to
2 -- this is just the abstract (indiscernible).

3 65. Q. This is, yes.

4 A. Yeah.

5 66. Q. I'd ask if you can scroll down.

6 A. Yeah, perfect. Okay. It is correct,
7 yeah.

8 67. Q. Okay. Thank you. Ashley, we'd like to
9 mark this as Exhibit A to the examination.

10 MS. SCHUITEMA: That's fine.

11 MS. THAVARAJ: Okay.

12

13 EXHIBIT NO. A: American Journal of Preventative
14 Medicine, article

15

16 BY MS. THAVARAJ:

17 68. Q. Dr. Gupta, this article aptly named,
18 is a study on unsheltered persons and the impact on
19 their health, correct?

20 A. That's correct.

21 69. Q. Okay. And this article in particular,
22 does include encampments within the definition of
23 being unsheltered. Correct?

24 A. That's correct.

25 70. Q. Okay. And I am going to take you

S. Gupta (Cr.-Ex.) - 22

1 through just some findings in this study. We'll start
2 where we are right now which is the abstract and
3 evidence synthesis on Page 1 of the PDF.

4 And I appreciate, Dr. Gupta, it's hard to
5 read these PDFs, they're very -- the words are very
6 small and so if there is anything you can't see just
7 let us know. We'll try to highlight it for you and
8 I'll try to be specific.

9 But I'm looking right now, middle of the
10 page where it says "Evidence synthesis" where it says,
11 "Unsheltered populations" -- and again for the
12 purposes of this paper that includes persons living in
13 an encampment:

14 "... experience higher rates of chronic
15 disease, serious mental illness and
16 substance abuse than sheltered
17 populations. Unsheltered homelessness
18 is strongly associated with chronic
19 homelessness that exacerbates serious
20 mental illness and substance use which
21 is often co-occurring. Despite having
22 large unmet health needs, unsheltered
23 populations have lower health care
24 utilization and often lack health
25 insurance ..."

S. Gupta (Cr.-Ex.) - 23

1 Do you see that?

2 A. I do.

3 71. Q. Okay. And you agree that for the
4 purposes of this paper, this applies to encampment
5 residents?

6 A. I do.

7 72. Q. Okay. I'll take you just to Page 4 of
8 the study, the second column. If we look at the third
9 paragraph in the second column on this page, you'll
10 see that starting at sort of the middle of the
11 paragraph. Unfortunately, there aren't paragraph
12 numbers. No, we were in the right spot. Perfect,
13 thank you.

14 You'll see that the middle of the paragraph
15 it says:

16 "... No tier-one studies provided support
17 for unsheltered individuals having
18 better health than sheltered
19 comparators ..."

20 Do you see that?

21 A. I'm just -- correct, yeah.

22 73. Q. Okay. And then across all the 48 tier-
23 one findings, 44 percent found that those who were
24 unsheltered had much poorer health. And 29 percent
25 supported moderately but -- sorry, moderately but

S. Gupta (Cr.-Ex.) - 24

1 significantly poorer health.

2 A. Correct.

3 74. Q. And you'll see at the end of the
4 paragraph, it says:

5 "... Within each of the eight health
6 outcome groups, most findings indicated
7 significantly worse health for
8 unsheltered than sheltered ..."

9 A. That's correct.

10 75. Q. Okay. And you agree again that this
11 applies to encampments?

12 A. For the purposes of this study,
13 correct.

14 76. Q. Thank you. Now if we go to Page 7, if
15 we go to the heading, "Substance Use," if we look at
16 the -- on the screen in front of you right now, if you
17 look at the second column ---

18 A. Okay.

19 77. Q. --- the last paragraph after that
20 section. So it'll be the paragraph just above the
21 title, "Injuries." Do you see that?

22 A. Yeah.

23 78. Q. And I apologize for the nature of this.
24 In the "before world," we world, we would have just
25 handed you a piece of paper and been able to show you

S. Gupta (Cr.-Ex.) - 25

1 what's on it. But here we are.

2 A. Absolutely.

3 79. Q. So this paragraph at Page 7 in the
4 second column, says:

5 "... There is evidence that substance use
6 may increase with the duration of
7 unsheltered homelessness ..."

8 And do you see that?

9 A. I do, yeah.

10 80. Q. Okay. And you agree again that this
11 applies to encampments?

12 A. Yeah, and again, one thing I will
13 mention that this does not compare people living in
14 encampments versus people living not in encampments.
15 But, yes, for these purposes of the study, it does --
16 it does include encampments in the unsheltered
17 population.

18 81. Q. In the unsheltered category. And we'll
19 come, sir, to the point about comparing those living
20 unsheltered but in encampments versus not in
21 encampments, shortly.

22 But just for the moment, you have, I think,
23 agreed with me that this applies. This point ---

24 A. Just to be clear, yes.

25 82. Q. --- applies to those living in

S. Gupta (Cr.-Ex.) - 26

1 encampments? You also -- I appreciate that you're
2 saying for the purposes of this study. This actually
3 is not itself a study, correct? It's actually a -- in
4 the sense that it is a study that has ---

5 A. It's a systematic ---

6 83. Q. --- aggregated data from 42 other
7 studies?

8 A. Correct. Like many of which -- again,
9 I haven't read all 42 of those studies but again,
10 systematic reviews by definition. Unfortunately, like
11 what systematic reviews are, are they're aggregate
12 studies so they don't differentiate and provide,
13 unfortunately, like in a context about what's
14 happening at one particular site and one particular
15 setting. They're kind of broad stroke trends that are
16 gathered from those particular studies.

17 84. Q. Sure. But you relied on this study,
18 right, sir, in your -- in preparing your expert
19 report?

20 A. Yes, so in preparing especially kind of
21 that last point, Paragraph 9 point -- and point 4
22 specifically referenced this. But again, in my expert
23 testimony is also based on a direct frontline clinical
24 experience. Kind of working in the -- with patients
25 across the homelessness spectrum.

S. Gupta (Cr.-Ex.) - 27

1 85. Q. Okay. On that point, actually I was
2 going to ask you and I can just -- I can ask your
3 lawyer if that's easier at this time which is
4 certainly fine.

5 I was going to ask you whether you're
6 relying on this study. It appeared to me at least
7 that you're relying on this study for your paragraph
8 -- your comments at Paragraph 9. If it is for 9, IV
9 in particular as well, maybe, Ashley, we can do this
10 by way of undertaking. I don't need Dr. Gupta to do
11 this right now. But it's just to tell us which
12 portion of the Martin's paper you're referring to.

13 MS. SCHUIITEMA: We can do that by way of
14 undertaking.

15 MS. THAVARAJ: Okay. Thank you. And sorry,
16 I said "Martin's," I meant "Richards," the
17 Richards Paper.

18 **UNDERTAKING**

19 BY MS. THAVARAJ:

20 86. Q. Okay, Dr. Gupta, I think you just
21 agreed with me that this was an aggregate literature
22 review of 42-some other studies. And I appreciate
23 your, you know, comments and critiques of the -- of
24 aggregate studies perhaps generally.

25 But the study which you have cited on --

S. Gupta (Cr.-Ex.) - 28

1 cited, sorry -- notes overall that there are --
2 overall that there are a number of worse health
3 outcomes associated with being unsheltered.

4 A. Unsheltered.

5 87. Q. Correct?

6 A. Correct.

7 88. Q. And being unsheltered for these
8 purposes does include living in an encampment?

9 A. It does, yeah.

10 89. Q. Thank you. We can go to the next study
11 here. Dr. Gupta, I should have said at the beginning,
12 if you need a break at any point, please just let us
13 know.

14 A. No. Sounds good, thank you.

15 90. Q. Another study that you referred to in
16 your affidavit is at footnote -- at Paragraph 11,
17 footnote 5. And this is a study by Nyamathi and
18 Gelburg, "Sheltered Versus Non-Sheltered Homeless
19 Women" in the Journal of General Internal Medicine.

20 A. Correct.

21 91. Q. Okay. Now again, you're not an author
22 of this study but you did read it?

23 A. I did.

24 92. Q. Okay, and it also is not made an
25 exhibit to your affidavit but we have found a version

S. Gupta (Cr.-Ex.) - 29

1 online. It's currently up on the screen. Can you
2 confirm that this is the study that you were referring
3 to in your affidavit?

4
5 --- SCREENSHARE

6
7 A. That's correct, yeah.

8 93. Q. Thank you. Ashley, I'd like to mark
9 this as Exhibit B to the examination.

10 MS. SCHUIITEMA: Okay.

11 MS. THAVARAJ: Thank you.

12
13 EXHIBIT NO. B: Study by Nyamathi and Gelburg

14
15 BY MS. THAVARAJ:

16 94. Q. And the objective of this study, Dr.
17 Gupta, it appears it was in the "Objective" section
18 right at the top of the beginning of the study here,
19 is to conduct an analysis between homeless women
20 residing in sheltered and non-sheltered environments,
21 correct?

22 A. That's right.

23 95. Q. Okay. And you just said, which is
24 correct, and which we will return to, that there
25 aren't studies. And this study is not about

S. Gupta (Cr.-Ex.) - 30

1 encampments versus other forms of unsheltered living,
2 it's actually about sheltered and non-sheltered, that
3 is, street and outdoor living. Correct?

4 A. That's right.

5 96. Q. Okay. Would you say that this -- would
6 you agree that this article also includes encampment
7 residents within the category of unsheltered living?

8 A. Yeah, and again, they didn't
9 specifically mention but the way kind of the study is
10 written, absolutely, I think it will include
11 encampment residents. Yeah.

12 97. Q. Now, I am going to take you to some
13 findings from this article. If we can start, please,
14 at Page 5, bottom. I'll just start with the top
15 paragraph of this discussions section which says:

16 "... This study confirms previous
17 research findings that homeless adults
18 are at risk for poor physical health
19 and unsheltered homeless persons have
20 poorer physical health status and use
21 less medical care than their sheltered
22 counterparts ..."

23 Do you see that?

24 A. Yeah.

25 98. Q. Okay.

S. Gupta (Cr.-Ex.) - 31

1 "... The worst health was reported by
2 women living on the streets ..."

3 A. Correct.

4 99. Q. "... Almost three-fourths of the
5 unsheltered homeless women reported
6 being in some degree of pain and 60
7 percent reported fair or poor health ..."
8 Correct?

9 A. Correct.

10 100. Q. Okay. And you agree that this finding
11 applies to people living in encampments?

12 A. Correct. And I will just briefly kind
13 of add, again, in the context of this particular study
14 and the patient population, this was a direct -- they
15 actually sampled the shelter environment. So kind of
16 it's referencing that particular environment.

17 101. Q. Okay. Would you disagree, sir, though
18 that these studies and this study in particular is
19 extrapolatable to other settings, the findings?

20 A. I do not. I just wanted to kind of
21 reference that. Because again, to me one of the
22 biggest challenges is in the literature right now is
23 comparing the point that you just brought up. Which
24 is comparing unsheltered individuals that are living
25 in encampments versus people that don't live in

S. Gupta (Cr.-Ex.) - 32

1 encampments or other forms of unsheltered
2 environments.

3 102. Q. Okay. And sorry, just to make sure I
4 understand. You do agree that the studies can be
5 extrapolated?

6 A. Correct.

7 103. Q. But your concern is that there are ---

8 A. Yeah, I think it's a limitation of the
9 study essentially, unfortunately, yeah.

10 104. Q. Understood, okay. Okay, so let me see
11 -- perhaps let me see if I can maybe try to save us
12 some time here and save you some time.

13 We clearly agree and you've fairly stated
14 that homelessness is associated with a number of poor
15 medical outcomes. I don't think that's in dispute?

16 A. That's correct.

17 105. Q. Okay. And I think we agree, but please
18 let me -- or can we agree that there's evidence from a
19 medical perspective that living indoors is generally
20 associated with better outcomes than living unhoused
21 and outdoors, including in a tent or an encampment?

22 A. Yes, we can agree on that.

23 106. Q. Okay. And you are correct that none of
24 the research that you've -- well, none of the research
25 that you cited -- and I certainly understand you to be

S. Gupta (Cr.-Ex.) - 33

1 saying that it's because it doesn't appear to exist --
2 compares health outcomes between living in an
3 encampment to otherwise living on the streets or
4 outdoors but not in an encampment, correct?

5 A. Correct. There's some rare
6 (indiscernible) some of the other literature we
7 referenced including Canada, MARCO study but -- but,
8 you know, that -- that evidence especially on a broad
9 level is quite limited.

10 107. Q. Okay. I think we can take down the
11 screenshare. And I think you've understood sort of
12 the distinction I was making, Dr. Gupta, which is also
13 that study is limited but also not about health
14 outcomes.

15 A. Correct.

16 108. Q. Okay. And of course, we've reviewed
17 your affidavit at Paragraphs 16 and 20 to 22 and other
18 places for which there is no -- or are no literature
19 citations. And so I am just going to confirm the
20 reason -- and, obviously, you're an expert and
21 knowledgeable about this issue and came here having
22 reviewed all the materials, you've clearly
23 demonstrated.

24 The reason you haven't cited a study on this
25 topic is that there is no literature and no basis in

S. Gupta (Cr.-Ex.) - 34

1 the literature to suggest that encampment living is
2 better than otherwise living rough or otherwise living
3 outdoors or on the streets. Is that correct?

4 MS. SCHUIITEMA: I am sorry to interrupt but
5 I think if you're asking him about a
6 specific paragraph where he hasn't cited
7 literature, then I think you should take him
8 to that. Sorry, you just briefly mentioned
9 Paragraphs 16 and then you said 20 to 22.
10 And I think if your question is related to
11 that, you should give him an opportunity to
12 look at it.

13 MS. THAVARAJ: It's not. I am happy to
14 though.

15
16 BY MS. THAVARAJ:

17 109. Q. I am happy to show them to you on the
18 screen, Dr. Gupta. I was asking the more general
19 question which is that you've been saying that there
20 is no literature or there is very little literature.

21 A. There is limited -- there is limited
22 literature comparing the MARCO project and we can go
23 to that if it's helpful. But whenever you feel
24 comfortable. Kind of looks at probably one of the
25 closest literature examples of that.

S. Gupta (Cr.-Ex.) - 35

1 But, yeah, like -- and I think if there's
2 particular paragraphs or things you want me to talk
3 about or reference, I am happy to go through those.

4 110. Q. Okay, let me ask you about the general
5 point first.

6 A. Okay.

7 111. Q. The MARCO study exists on encampments?

8 A. Correct.

9 112. Q. It's not about health outcomes?

10 A. It's -- like again, it does comment on
11 -- like, to me many of those -- and can we go through
12 the study itself? Whenever you want, like we can go
13 through kind of -- because there are components to it
14 around housing and other things that I think
15 reference, would be kind of relevant to health
16 outcomes.

17 But I don't actually know actually right now
18 which health outcomes and which particular elements
19 you might be referencing and talking about.

20 113. Q. Okay. We are happy to. Let's go the
21 MARCO study now. So this is Exhibit B to your
22 affidavit, sir. Do you recognize it?

23
24 --- SCREENSHARE
25

S. Gupta (Cr.-Ex.) - 36

1 A. Correct.

2 114. Q. Okay. And I was just asking you a
3 series of questions because you were discussing
4 studies on encampment living specifically and studies
5 on encampment living, unsheltered encampment living
6 versus unsheltered non-encampment living.

7 A. Correct.

8 115. Q. (Indiscernible) look at it that way?
9 Okay. And your view is that this is a study on
10 unsheltered encampment living?

11 A. Yeah, it's an evaluation of, you know,
12 kind of work that took place during the pandemic to
13 support people that were living in encampments during
14 -- in Toronto, primarily.

15 116. Q. Okay. Let's go through, sir, some of
16 the components of this study, if you don't mind. So
17 we can scroll anywhere that you'd like to scroll. But
18 I am just going to ask you some questions about it.

19 A. Yeah.

20 117. Q. This study is -- I mean, number one,
21 this publication is actually not the full publication,
22 correct? It's a ---

23 A. It's a summary.

24 118. Q. --- summary report. And a summary
25 report that was prepared -- if we scroll to the first

S. Gupta (Cr.-Ex.) - 37

1 page, I think you'll see. A summary report that was
2 prepared -- if you see the "About this Report"
3 section. This is a brief summary of one of the MARCO
4 evaluations. The final full-length report will be
5 released in December of 2021. Do you see that?

6 A. I do, yeah.

7 119. Q. Okay, are you aware at all whether the
8 full-length report actually came out?

9 A. I -- I do believe it -- like I -- I --
10 it did come out.

11 120. Q. Okay. We took a look and we weren't
12 able to find it. But, Ashley, can I get an
13 undertaking that if Dr. Gupta is able to find that and
14 provide it to you, that you provide it to us?

15 MS. SCHUITEMA: Yes, as long as he is able
16 to find it, we can provide it.

17 MS. THAVARAJ: Absolutely, thank you.

18 **UNDERTAKING**

19 BY MS. THAVARAJ:

20 121. Q. In any event, Dr. Gupta, this is --
21 this extract, this summary is what is -- it has been
22 attached as an exhibit to your affidavit, correct?

23 A. Correct. This summary is what I know,
24 but, yeah.

25 122. Q. And so this evaluation included data

S. Gupta (Cr.-Ex.) - 38

1 collection between March and June of 2021.

2 A. That's correct.

3 123. Q. Correct?

4 A. Yeah.

5 124. Q. Sorry, I spoke over you there.

6 A. That's correct.

7 125. Q. Okay. And the report itself was
8 compiled and published later that same year, in
9 November at least. Not the report but this summary
10 that we're looking at?

11 A. That's right.

12 126. Q. Okay. And the participants were
13 recruited through outreach engagement, correct?

14 A. That's right.

15 127. Q. Okay. Not random sampling?

16 A. Yeah.

17 128. Q. And you obviously have done and worked
18 on studies yourself, that's not a way that allows for
19 representation necessarily, correct, when you do
20 outreach rather than random sampling?

21 A. That's right. This is correct.

22 129. Q. And it also means that individuals who
23 are perhaps most disconnected from services and more
24 marginalized may be under-represented?

25 A. Often, you know, the nature of the work

S. Gupta (Cr.-Ex.) - 39

1 that this particular study was undertaking, was
2 targeting people that would be most marginalized and
3 under-represented. But random sampling, generally, is
4 limited in its rigour.

5 130. Q. And it's representativeness.

6 A. Yeah. And its representativeness.
7 Correct.

8 131. Q. Okay. And it's also a fairly small
9 sample size, correct? A hundred and twenty-seven ---

10 A. Correct.

11 132. Q. --- queries.

12 A. Queries.

13 133. Q. And 23 interviews.

14 A. Correct.

15 134. Q. I would think that that limits its
16 generalizability even within Toronto, would you agree?

17 A. I agree that this -- again, is very
18 limited. Again, speaks to the very limited nature of
19 literature comparing living in encampments versus not
20 living in encampments, broadly-speaking.

21 135. Q. Okay. Thank you. And this was the
22 height of the COVID-19 pandemic. And sorry, this
23 study is about Toronto, is it not?

24 A. Is about Toronto, correct.

25 136. Q. Yes, okay. And was at the height of

S. Gupta (Cr.-Ex.) - 40

1 the COVID-19 pandemic?

2 A. That's correct.

3 137. Q. Okay. And so the restrictions
4 described in the report would have been from the
5 pandemic time?

6 A. Correct.

7 138. Q. And specific and unique to that time as
8 well?

9 A. It's in -- I'm just going to go and
10 reference which restrictions particularly. Because
11 there are, unfortunately, since the COVID pandemic
12 time, the shelter environment have changed
13 dramatically in so many ways. So I don't know -- if
14 you can just quickly go over which restrictions they
15 were mentioning. I'll just see. Is there a
16 particular paragraph or section?

17 139. Q. Well, I'm just asking more generally,
18 sir, about the -- like given you didn't, you know,
19 author this study and all of that, I'm just asking
20 more generally, this study is about the pandemic and
21 about the pandemic time. About, actually, a
22 particular snapshot, March to June of 2021 at the
23 height of the pandemic. Would you disagree?

24 A. Yes, that's the -- this particular
25 study is studying that time period. But I think it

S. Gupta (Cr.-Ex.) - 41

1 may be helpful to also -- yeah. That's correct,
2 that's when it's being started, the study period is
3 defined during at the height of the pandemic.

4 140. Q. Okay. And it also took place in early
5 summer, March to June of 2021. Responses may have
6 been different in the winter time, correct?

7 A. I cannot probably speak to that
8 particular component.

9 141. Q. I mean, you speak in your affidavit to
10 the winter time issues associated with homelessness,
11 frost bite, gangrene, trench foot, all those things.
12 Those impacts wouldn't at least be as relevant in
13 March to June of 2021, would you agree?

14 A. Again, I don't -- like, generally-
15 speaking, yes, like they may not be as relevant. But
16 the -- like unfortunately, the weather systems can
17 vary kind of dramatically. And, yeah, I am just
18 trying actually to see which point you're talking
19 about here.

20 MS. SCHUITEMA: Maybe you can scroll on and
21 let him have an opportunity to look at it.
22 Or if you want to take him to what the
23 specific part that you're talking about,
24 Kartiga, in the study. That would be
25 helpful.

S. Gupta (Cr.-Ex.) - 42

1 MS. THAVARAJ: I'm speaking generally about
2 the study.

3
4 BY MS. THAVARAJ:

5 142. Q. So if there's a particular point you'd
6 like to go to, Dr. Gupta, in the study, please let us
7 know? Like I can take you to -- we can go to the
8 first page if you like. We actually -- there you go.
9 Where it talks about ---

10 A. Yeah, I'm just -- I'm just going to
11 asking about the weather-related question because I
12 don't think that actually ---

13 143. Q. No, I'm merely referring to -- so do
14 you see at the bottom of column 1, it says:

15 "... We conducted 127 surveys and 23
16 interviews with encampment residents in
17 Toronto between March and June of 2021
18 ..."

19 So I'm just putting it to you, March to
20 June of 2021 would be different than November to
21 January of a particular year just as a matter of
22 course. The difference between early summer and the
23 winter time, for example.

24 MS. SCHUIITEMA: And what would -- could you
25 be specific about what would be different,

S. Gupta (Cr.-Ex.) - 43

1 Kartiga? Like you need to articulate it
2 exactly what you're asking him. What would
3 be different?

4 MS. THAVARAJ: Well, I think I have, Ashley.

5 MS. SCHUIITEMA: So maybe ---

6 MS. THAVARAJ: (Indiscernible).

7 MS. SCHUIITEMA: --- explain, like what is
8 the question, what would be different in
9 that timeframe. Like is there something
10 specific in the study result that you -- or
11 you're asking him would be different in the
12 winter?

13
14 BY MS. THAVARAJ:

15 144. Q. Dr. Gupta, I am asking you whether
16 people's responses might be different in the winter
17 time than in the summertime or the pre-summertime,
18 March to June of 2021?

19 A. Yeah, I think really would depend on
20 the questions they were asking. And as far as I can
21 understand, like they're not asking questions related
22 to, you know, like the impact of the winter. Being
23 I'm not a study author as outlined earlier but they're
24 asking about needs being met and housing options and
25 support systems.

S. Gupta (Cr.-Ex.) - 44

1 So it's hard to say that it wouldn't be
2 generalizable to, you know, other months. Because
3 again, like we're not talking about like colds-related
4 outcomes or cold-related injuries or things of those
5 nature, I suppose, in this particular -- or like
6 that's not what the authors are asking in this
7 particular study.

8 145. Q. Or that they're being asked about
9 living outdoors. And I am asking you simply whether
10 that would be different and you might get different
11 answers to questions about living outdoors in the
12 winter time versus in the early summer?

13 MS. SCHUIITEMA: I'm sorry. I'm going to
14 interrupt again, Kartiga. Can you take him
15 to what specific finding or outcome in this
16 MARCO report you're asking him to opine on,
17 the difference between the spring and the
18 winter or summer and winter?

19 MS. THAVARAJ: I'm not, Ashley, asking him
20 to opine on anything specific. I'm
21 literally asking the question that I just
22 asked.

23 MS. SCHUIITEMA: Okay. I mean, I think it's
24 unfair to be asking him to just generalize
25 about the difference between the -- if

S. Gupta (Cr.-Ex.) - 45

1 you're not putting a specific finding to him
2 that's in here. Maybe you can ask it again.
3 MS. THAVARAJ: Sure. I don't think it's an
4 unfair question, just for the record. So I
5 would appreciate the witness' response.

6
7 BY MS. THAVARAJ:

8 146. Q. But also let me just put this directly
9 to you, Dr. Gupta. This study, you've agreed it's a
10 small sample size, you've agreed it's not -- it's not
11 a study that is conducted in a way that's necessarily
12 -- or was conducted in a way that's necessarily
13 representative. And I think you agreed with my
14 assertion that it's of limited generalizability even
15 within Toronto.

16 I'm going to put it to you that ---

17 A. Yeah.

18 147. Q. --- this study is not generalizable to
19 other encampments?

20 A. I would respectfully disagree to that
21 because, again, it gives us -- you know, like there's
22 some -- there's often many shared experiences of being
23 homeless and shared experiences of people that live in
24 encampments and are dis-institutionalized and have
25 structural vulnerability.

S. Gupta (Cr.-Ex.) - 46

1 So I think this is one of like, you know,
2 very few signals I think that we have to understand,
3 you know, why and what people's decision-making goes
4 in choosing encampments versus unsheltered
5 environments and kind of the benefits they may
6 experience for those.

7 148. Q. Okay. I understand that it's one of
8 the few signals we have, sir, but that doesn't mean
9 it's representative or generalizable, does it?

10 A. Again, I will like indicate to you
11 maybe outlined like -- like are you talking about
12 generalizability across Canada, North America or in a
13 particular context?

14 149. Q. So in this context, I would put it to
15 you, it's not generalizable to the encampment at issue
16 in this case. Would you agree with that?

17 A. I would respectfully kind of disagree
18 with the particular assertion. You know, like I --
19 you know, as an emergency provider, I've worked in
20 kind of many settings, many emergency departments.

21 And I also, for example, help with like a
22 health equity group across the country where we look
23 at impact of sort of homelessness in emergency care.
24 And often the experiences are surprisingly common
25 across sites, across cities, across things.

S. Gupta (Cr.-Ex.) - 47

1 Even so, you know, like this is -- this may
2 be downtown Toronto like you could have mentioned like
3 we're closer to downtown Toronto. But after people in
4 other smaller communities, you know, when we -- when
5 we discuss these matters in boardrooms and in
6 discussions with direct emergency providers,
7 surprisingly, even smaller communities like the one in
8 (indiscernible) and at hand, face remarkably similar
9 challenges and issues in access to shelter challenges
10 finding shelter.

11 And -- and, you know, that's why I -- I,
12 like you know, like, for example, I may assert this is
13 not representative to an encampment in Columbia, sure.
14 But clearly ---

15 150. Q. Would you agree that there are some
16 encampments that's not generalizable, too?

17 A. But the encampment -- so that's why I
18 pose the question back to you. Like can you ask which
19 kind of setting you think it might be. Like, you
20 know, like because -- we have to kind of look at what
21 question you're asking. Like what is the question
22 that we're trying to use the study to answer. And
23 maybe that might help us to understand how to answer
24 best.

25 MS. SCHUIITEMA: I mean, I think, Kartiga,

S. Gupta (Cr.-Ex.) - 48

1 you did ask, it's not generalizable to the
2 encampment at issue and he disagreed with
3 that.

4 MS. THAVARAJ: Yeah, but then he spoke for a
5 bit and he said it's perhaps not
6 generalizable to an encampment in Columbia.
7 So I'd like to know what distinguishes.

8
9 BY MS. THAVARAJ:

10 151. Q. And that's one of the reasons, Dr.
11 Gupta, that I asked you about the winter time. So
12 perhaps we can go back to that question. Would you
13 agree that there's a difference between March and June
14 versus December to January of any given year?

15 MS. SCHUIITEMA: A difference in what,
16 Kartiga?

17
18 BY MS. THAVARAJ:

19 152. Q. In how someone might respond to
20 questions about living outdoors?

21 A. Sorry, did you -- I apologize, to kind
22 of labour the point and again, I hope that, you know,
23 like this is not to, you know, belabour the point.
24 But I just wanted to understand. Like I -- you're
25 talking -- are there different -- could you just

S. Gupta (Cr.-Ex.) - 49

1 repeat that one more time. I apologize.

2 153. Q. No problem. Are there differences --
3 might there be differences in how a survey respondent
4 might respond to questions about living outdoors
5 between March and June of a given year and November to
6 January of a given year?

7 A. Yes. And there may be differences in
8 our -- somebody's response to a survey in November to
9 January versus March to June.

10 154. Q. Because of the winter time?

11 A. And it may be due to -- like, again,
12 that it may not just be due to winter time, it may be
13 due to other factors. But I think it would be helpful
14 before commenting on those particular factors you
15 might be mentioning in referencing.

16 155. Q. Okay. Sir, don't think I'm trying to
17 trap you in some unique -- you know, I'm really just
18 asking if the winter time is going to impact
19 somebody's experience of living outdoors. Can we
20 agree on that?

21 A. Yes, we can absolutely agree the winter
22 time change somebody's experience of living outside.

23 156. Q. Okay. Ashley, I think this might be a
24 good moment for a short break. We still have ---

25 MS. SCHUITEMA: Sure.

S. Gupta (Cr.-Ex.) - 50

1 MS. THAVARAJ: --- a bit of time to go with
2 Dr. Gupta.

3 MS. SCHUIITEMA: I think that's a good idea.

4 MS. THAVARAJ: How much time would you like?

5 MS. SCHUIITEMA: Do you want to take 10
6 minutes?

7 MS. THAVARAJ: Sure. Come back at 11:10?

8 MS. SCHUIITEMA: Okay, thanks.

9 MS. THAVARAJ: Okay.

10 THE WITNESS: Thanks everybody.

11 MS. THAVARAJ: Thank you.

12
13 --- BREAK
14

15 BY MS. THAVARAJ:

16 157. Q. Thank you, Dr. Gupta. Sorry, I should
17 have asked this before the break. But you're aware
18 that -- I take it you didn't speak with anybody on
19 your break?

20 A. I did not.

21 158. Q. Okay, and you're aware about that,
22 that's great, thank you.

23 Okay, so before the break, we were
24 discussing the MARCO study.

25 A. That's correct.

S. Gupta (Cr.-Ex.) - 51

1 159. Q. You have agreed, sir, that the focus of
2 the study is on Toronto?

3 A. The -- yeah, the study, the sample
4 population from the study is from Toronto, correct.

5 160. Q. Okay. Toronto is a big city.

6 A. Correct.

7 161. Q. The study does not survey residents
8 outside of Toronto, and specifically not Waterloo
9 Region?

10 A. Correct.

11 162. Q. And it doesn't survey residents of
12 encampments in a similarly-sized population; it's
13 using Toronto's population?

14 A. Yeah, again, I don't know the exact,
15 you know, details of, you know, like which population
16 within Toronto they sampled. Because within Toronto,
17 like there's kind of geographically distinct areas
18 that exist and happen in local communities that
19 develop.

20 So I don't know exactly which particular
21 encampment and which particular areas that they focus.
22 But the study was definitely done in Toronto.

23 163. Q. Okay. And we were speaking earlier in
24 the examination, Dr. Gupta, you might recall about
25 whether this -- whether the MARCO study gives us

S. Gupta (Cr.-Ex.) - 52

1 information about health outcomes.

2 Do you recall that?

3 A. That I do, yes.

4 164. Q. Okay. And I put it to you that the
5 study does not give us information on health outcomes.
6 And I think you disagreed.

7 A. I think for me, like, because health
8 outcomes can be narrowly defined and broadly defined.
9 So, you know, it does not give us information on
10 physical health outcomes such as, you know, cardio-
11 vascular disease, cancer, even things like frost bite
12 or hypothermia.

13 But it does give us, kind of some
14 information on things like outreach services and kind
15 of (Indiscernible) reports and -- and, you know, the
16 experience of social connection and things like that.
17 Which, you know, have impact on health as well.

18 165. Q. Okay, I understand. And from your
19 agreeing, it does not -- the study does not get us
20 information on physical health outcomes. It doesn't
21 measure communicable diseases or cardio-vascular
22 conditions, as you mentioned.

23 A. Correct, it does not. No.

24 166. Q. Okay. And it does measure, as you've I
25 think said, sort of the more subjective experiences of

S. Gupta (Cr.-Ex.) - 53

1 people, do you agree?

2 A. Correct. Like, and again, like I will
3 take, like, you know, because -- and I apologize if,
4 you know, I am not trying to be difficult or anything
5 of the sort.

6 But often those experiences in my clinical
7 experience matter fairly -- like you know, favour very
8 strongly for the individual's experiencing
9 homelessness. Kind of like how they're treated, how
10 they're cared for or how, kind of, the mental and
11 social connection that they have at -- they are very,
12 very important actually, health outcomes.

13 So if I may, like, you know, like say that
14 that option favours even more than somebody's -- you
15 know, they may not want to get care for, you know,
16 like the broken bone they have. But they wanted to be
17 treated in a respectful way and they won't even get
18 seen in my emergency department until somebody kind of
19 addresses some of those social connections and other
20 -- like, with (indiscernible) references subjective
21 components of health. But I think those favour very
22 strongly in this particular -- or, like that's what's
23 focused on in the study, but not the -- the physical
24 outcomes, like cardio-vascular disease and health
25 outcomes.

S. Gupta (Cr.-Ex.) - 54

1 167. Q. Okay, I understand, sir. And I
2 appreciate the point that you've just made. But I am
3 going to ask you but they also -- these also are
4 subjective views. Correct? By their very nature,
5 subjectivity means they are about that particular
6 person. Would you agree?

7 A. I apologize, I may kind of slow us down
8 and go back to the study again.

9 168. Q. Well, I am not asking about anything --
10 any particular wording used, right? I am just asking
11 about your -- the answer that you just gave. So these
12 are subjective answers, correct?

13 A. Like, so like, connection to mental
14 health supports, connection to, you know, outreach
15 services, too, are not subjective. They are
16 measurable outcomes and endpoints.

17 But I can't like kind of like talking about
18 like lay factors or lay -- like, you know, like, you
19 know, like in colloquially some people kind of
20 reference them as subjective. But they're measurable
21 endpoints. As far as I am aware, they're not --
22 there's no particular distinction about like
23 subjective versus like, you know, like there is
24 nothing subjective about I guess being offered a
25 support service or ---

S. Gupta (Cr.-Ex.) - 55

1 169. Q. Yes.

2 A. Yeah. Okay.

3 170. Q. Fair enough, I was asking about your
4 comments about feeling respected. For example, you
5 said, you know, people might not even see you for a
6 broken bone if they don't feel ---

7 A. Right.

8 171. Q. Those experiences are subjective.
9 Correct?

10 A. Those particular, yeah, experiences are
11 subjective. Sure.

12 172. Q. Yeah, okay. And I think you -- we
13 spoke a little earlier, sir, about the fact that this
14 was during -- the study was conducted during the
15 pandemic.

16 At the time, in particular, public health
17 advice was to congregate outdoors rather than indoors
18 to limit the spread of COVID-19. Do you recall that?

19 A. I do.

20 173. Q. Okay. And that can help explain at
21 least why, at that time, some residents would have
22 felt safer being outdoors. Correct?

23 A. In part, yes, during that time they may
24 have. Yes.

25 174. Q. Thank you. And sorry, I appreciate

S. Gupta (Cr.-Ex.) - 56

1 everything that you said about this study and your
2 views on its generalizability. But I'm just going to
3 have you confirm, you don't know anything about the
4 residents of the encampment at issue in this
5 litigation, the Kitchener encampment, correct?

6 A. I don't have direct clinical encounters
7 or experience. I've never visited this particular
8 encampment.

9 175. Q. And this MARCO study is not about that
10 particular encampment?

11 A. It is not about the Kitchener-Waterloo
12 encampment.

13 176. Q. Okay. And you did speak earlier about
14 the fact that there is a lack of literature on the
15 distinction between living unsheltered in an
16 encampment versus living unsheltered without an
17 encampment previously.

18 A. Yeah.

19 177. Q. I'm also going to put to you that there
20 is no basis in the literature to suggest that
21 encampment living is better than otherwise unsheltered
22 non-encampment living. Would you agree?

23 A. Yeah, so there is no strong literature
24 base. And there is very, you know, limited literature
25 base to do that. Which is often at least in -- you

S. Gupta (Cr.-Ex.) - 57

1 know, and you're talking about health living, like
2 physical health impacts of encampment versus non-
3 encampment unsheltered living.

4 Would that be -- is that kind of what you're
5 asking me?

6 178. Q. Yes. So you ---

7 A. Yeah.

8 179. Q. --- said there's no strong literature
9 base and there's a limited literature base. So
10 there's some literature base though. Correct?

11 A. The -- yeah, and MARCO is one example
12 of that literature base.

13 180. Q. Okay. But there's no basis in --
14 excepting that it's very limited literature pool,
15 there's no literature to suggest that encampment
16 living, unsheltered encampment living is better than
17 unsheltered non-encampment living that compares those
18 two things, and states that the former is better?

19 A. That encampment living is better? No,
20 there is not. Yeah.

21 181. Q. Okay, sir, I am going to take you
22 briefly to some of the assertions in your affidavit.
23 And here, we will put them up on the screen for you.
24 If we can go to Paragraph 16 of affidavit.

25 I think you've agreed with me already that

S. Gupta (Cr.-Ex.) - 58

1 living indoors, to use my term from earlier, is
2 associated with more positive health outcomes than
3 living outdoors.

4 And in this paragraph, at Paragraph 16, you
5 speak to what you say are the benefits of access to
6 some form of shelter. And you speak about a tent,
7 specifically.

8
9 --- SCREENSHARE

10
11 A. Correct.

12 182. Q. Okay. I see that there are no studies
13 cited for this. I assume that that's because no
14 studies exist to speak to the issues or to at least
15 make the points that you've made in this paragraph?

16 A. No studies that I am aware of. There
17 may be studies that I missed during my review. But no
18 particular studies that I am -- I'm referencing my
19 clinical experience.

20 183. Q. Okay. Although you seem very well-
21 versed with the literature. Sort of, you've testified
22 on similar topics in other cases as well, so I assume
23 you are well-versed in the literature. Would you
24 agree?

25 MS. SCHUIITEMA: Well, I mean -- sorry, did

S. Gupta (Cr.-Ex.) - 59

1 you -- you didn't ask him about the other
2 times he's testified. I don't know if he's
3 testified on similar things, Kartiga. Has
4 that been established?

5
6 BY MS. THAVARAJ:

7 184. Q. Dr. Gupta, have you testified
8 previously on issues around homelessness?

9 A. Not on ---

10 185. Q. (Indiscernible)?

11 A. Yeah, so not -- I have not testified on
12 issues around encampments or unsheltered living in the
13 past.

14 186. Q. Okay. When you prepared for testifying
15 in this case then, I assume you were thorough in your
16 preparation?

17 A. Yeah, I was, you know, thorough. But,
18 you know, there is often, you know, literature that's
19 missed, there's free literature that we may not have
20 access to or always come across.

21 But broadly-speaking, you know, I am not a
22 very particular -- like, in this particular section
23 specifically, I am referencing my clinical expertise
24 and experience.

25 187. Q. Okay. And in your thorough review of

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1 the literature, you did not come across any literature
2 that would buttress the points that you've made in
3 Paragraph 16 of affidavit to cite to them. Correct?

4 A. I think I've answered the question
5 sufficiently that I am relying on clinical experience
6 and expertise, so ...

7 188. Q. Okay. I accept that answer but I'd
8 like you to answer the question of you did not find
9 any academic literature to cite to this paragraph?

10 A. Correct.

11 189. Q. Thank you. Now, you have said here
12 that -- I understand the point that you've made. I
13 think it would be helpful if we maybe go through them.

14 A. Yeah, absolutely.

15 190. Q. You would agree, I take it, based on
16 our conversation earlier, that a tent is an inferior
17 form of protection against the elements, than sleeping
18 indoors?

19 A. I would agree.

20 191. Q. Okay. Would you agree that a tent can
21 offer less protection than its inhabitant might think
22 it can?

23 A. Yes.

24 192. Q. Okay. You said earlier you had
25 reviewed Dr. Koivu's affidavit. And she speaks in her

S. Gupta (Cr.-Ex.) - 61

1 affidavit about medical injuries that can arise for
2 persons living in a tent when they think that the tent
3 can offer them protection.

4 Do you recall that section of the affidavit?

5 A. I do not. I would ---

6 193. Q. Okay.

7 A. We can go over it if appropriate.

8 194. Q. That's fine. Yeah, I am happy to just
9 ask you those questions then.

10 Let's start. Do you agree that there are
11 medical issues associated with living outdoors that
12 can still arise when someone lives inside a tent?

13 A. Yes.

14 195. Q. Okay. Frost bite, hypothermia ...?

15 A. Yeah, and again, I'll just kind of
16 mention that often here what I am doing is in
17 comparing against somebody who does not have access to
18 physical, permanent, structured shelter because of
19 lack of access, lack of other things especially kind
20 of the protection from the elements bit. Like Section
21 A kind of which is I think which you are referencing
22 right now.

23 I am not denying that, you know, living in a
24 permanent, physical structure provides more elements
25 and more safety than living in an encampment. What I

S. Gupta (Cr.-Ex.) - 62

1 am comparing against is the (indiscernible) spectrum
2 of homelessness where so many patients that I see
3 don't -- cannot access shelter because they're full or
4 it doesn't meet their needs or other elements like
5 that.

6 196. Q. Okay, so I agree with you. So I think
7 we're both focused on the same things. So let me just
8 confirm, you are saying that Paragraph 16 of your
9 affidavit, you're focused on assessing the impacts to
10 somebody living outdoors in a tent versus living
11 outdoors, not in a tent?

12 A. Correct.

13 197. Q. Okay, and that is the universe within
14 which I am asking my questions currently, okay?

15 A. Okay.

16 198. Q. Okay, so do you agree that the medical
17 issues that I described, frost bite, hypothermia,
18 trench foot, those can all still occur when someone is
19 in a tent?

20 A. Yes, it's relative risk reduction. So
21 what I mean by that is that there's less -- less risks
22 of that, you know, like again, I don't have a
23 quantification.

24 But in my clinical experience, somebody
25 let's say who is, you know, sleeping on, you know, a

S. Gupta (Cr.-Ex.) - 63

1 metal grate at, you know, because on a sidewalk, is
2 going to be different than somebody living in a --
3 somebody in a closed tent in a sleeping bag.

4 199. Q. In terms of the incurrence of ---

5 A. (Indiscernible) physical injury, frost
6 bite, you know, healing from wounds that they may
7 have. Risk of, you know, things like asthma
8 exacerbation, COPD's exacerbation, things like even
9 mental health kind of exacerbations.

10 If somebody like, you know, like as
11 mentioned in 16(b), exposure, you know, to people
12 walking by somebody and -- and ---

13 200. Q. Okay, so sorry. I've let you go on and
14 I am happy to, I just -- I really have to be able to
15 ask my questions.

16 A. Please.

17 201. Q. Your counsel have another examination
18 this afternoon so I don't want to take up our whole
19 day with you.

20 I am just going to ask you some focused
21 questions. We've sort of considered the universe,
22 right, this Paragraph 16 is talking about living
23 outdoors in a tent versus not living outdoors in a
24 tent. Right?

25 So I am not trying to cut you off, please

S. Gupta (Cr.-Ex.) - 64

1 ---

2 A. Sorry, yeah.

3 202. Q. --- the evidence you think is
4 necessary. But I am just going to try to ask you some
5 focused questions that I am going to ask ---

6 A. Please.

7 203. Q. --- just respond to what I ask, okay?

8 A. Go for it.

9 204. Q. Okay. So with frost bite, hypothermia
10 and trench foot, you do agree that those things can
11 still arise when someone lives in a tent?

12 A. That's right.

13 205. Q. Okay. Do you agree that it puts -- a
14 tent could put somebody at a higher possible
15 predisposition to heat stroke by being in an enclosed
16 space?

17 A. Not in my clinical experience.

18 206. Q. Okay, but do you agree that it's a
19 possibility? You haven't observed it in your clinical
20 experience but you agree that it's a possibility?

21 A. So you're saying that somebody could
22 have a higher risk of heat stroke in a tent compared
23 to being not in a tent?

24 207. Q. Correct.

25 A. I would tend to disagree with that.

S. Gupta (Cr.-Ex.) - 65

1 208. Q. Okay, but you don't have any direct
2 observational experience which is what this paragraph
3 is based on to suggest that that's incorrect?

4 A. But to me like - so, but I can -- let's
5 just -- if I can just pause for a second just to
6 discuss that particular assertion.

7 209. Q. I'm sorry, I'm just asking you if you
8 have any direct observational clinical experience.

9 A. That somebody ---

10 210. Q. (Indiscernible) that incorrect?

11 A. You said that somebody is at a higher
12 risk of heat stroke outside -- inside versus outside?

13 211. Q. Correct.

14 A. No.

15 212. Q. Okay, thank you. And I think we spoke
16 earlier about the fact that a person could think that
17 a tent might protect them from certain issues. And
18 there's a possibility that they can be wrong about
19 that. You agree?

20 A. That's correct.

21 213. Q. Okay. Would you agree that if a tent
22 is not properly maintained, for example, it could lose
23 its effectiveness against the elements that you speak
24 to in Paragraph 16(a)?

25 A. That's correct.

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1 214. Q. Okay. And that would create additional
2 risks for the inhabitant then that they might not be
3 aware of?

4 A. Again, compared to somebody -- we're
5 talking again compared to them being outside? I'm
6 just -- I just wanted to clarify that point.

7 215. Q. I am asking whether if the tent is not
8 properly maintained and loses its effectiveness, would
9 you agreed might happen or could happen, whether this
10 could create additional risks for the inhabitant that
11 they might not be aware of?

12 A. Again, so I'll briefly actually just
13 step back.

14 216. Q. No, sir, I prefer you just answer my
15 question. Answer it yes or no and then if you have an
16 explanation, you can give it.

17 MS. SCHUIITEMA: Well, when you're talking
18 about properly maintained ---

19 MS. THAVARAJ: Ashley, if you could also not
20 interrupt when I'm asking ---

21 MS. SCHUIITEMA: I'm allowed to interrupt. I
22 mean, I don't know what "properly
23 maintained," is that clear to him. Is that
24 what you're asking him?

25 MS. THAVARAJ: He's already agreed to that

S. Gupta (Cr.-Ex.) - 67

1 part of the question, Ashley. So please
2 don't try to open up his evidence. He has
3 agreed that if a tent is not properly
4 maintained, it can lose its effectiveness
5 against the elements.

6 I then asked that this might create
7 additional risks for the inhabitant that
8 they might not be aware of. Yes or no, and
9 he has not answered the question.

10
11 BY MS. THAVARAJ:

12 217. Q. So, Dr. Gupta, yes or no, can this
13 create additional risks for the inhabitant that they
14 might not be aware of?

15 MS. SCHUIITEMA: And sorry, and I am going to
16 interrupt again, Kartiga. He is allowed to
17 explain his answer and I don't want you to
18 give him the impression that he's not
19 allowed. I appreciate that we're coming up
20 on time. But, yeah.

21 MS. THAVARAJ: I agree, Ashley, you can
22 interrupt once I'm done asking the question
23 by the way. Just don't please interrupt
24 when I am in the middle of speaking.
25

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1 BY MS. THAVARAJ:

2 218. Q. Dr. Gupta, as I said, you're very free
3 to answer your question -- explain your answer,
4 rather. But I do want you to answer the question. So
5 please give me a yes or no. If you have an
6 explanation to the yes or to the no, feel free to give
7 it to me. But I am going to give you my question yet
8 again for the record.

9 A. Right.

10 219. Q. Which is if a tent is not properly
11 maintained, you've agreed that it can lose its
12 effectiveness against the elements. And my question
13 to you is, can this create additional risks for the
14 inhabitant of the tent, that they might not be aware
15 of?

16 A. I would say potentially and I am going
17 to just briefly kind of explain here. I am not -- I
18 am an emergency room doctor. I'm a -- you know, like
19 I don't maintain tents for individuals who were in
20 encampments.

21 You know, shelter providers and outreach
22 workers, they work with -- in, like you know, I've
23 come across individuals where they have -- you know,
24 like community members and other organizations help
25 people kind of maintaining encampments.

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1 But I think this is where -- what I was
2 mentioning. This, you know, like particular specifics
3 about tent maintenance, tent upkeep may actually be
4 outside my scope of expertise.

5 And that's briefly what I wanted to mention.
6 Is that, you know, I -- I see the individuals in
7 emergency department. And that's kind of what I'm
8 basing this on. I am not -- and that's briefly what I
9 wanted to mention it, is that I don't maintain tents,
10 I don't go out and maintain tents for those
11 individuals.

12 So and that's, you know, like I think we're
13 at a place where I'm perhaps speaking outside of my
14 area of expertise and I did want to kind of bring that
15 in.

16 220. Q. Okay, sir, so I'm not -- I'm certainly
17 not -- I'm certainly not under the impression that
18 your expertise is in tent maintenance. I am very
19 simply asking you from your interactions with patients
20 -- which is what you said this Paragraph 16 is based
21 on and your interactions with their entire state.
22 Which is you have spoken in other portions of the
23 affidavit about the mental state, the physical state,
24 etcetera, of any of the people that you've dealt with.

25 I am very simply asking you, sir, whether if

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1 a tent is not properly maintained, this can create
2 additional risks for the inhabitant that they may not
3 be aware of.

4 MS. SCHUIITEMA: Okay, and I am going to
5 interrupt now that you're done your
6 question, Kartiga, and say he's already
7 answered it. You've asked a number of times
8 ---

9 MS. THAVARAJ: He actually has not, Ashley
10 and ---

11 MS. SCHUIITEMA: He said "potentially."

12 MS. THAVARAJ: --- (indiscernible) interrupt
13 me before he ---

14 MS. SCHUIITEMA: His answer was
15 "potentially."

16 MS. THAVARAJ: Yeah

17 MS. SCHUIITEMA: And then he -- we could ask
18 if we want to get the answer back but he
19 said "potentially." And then he explained
20 that he's an emergency room doctor and he
21 thinks this is outside of his scope.

22
23 BY MS. THAVARAJ:

24 221. Q. Okay, so, sir, your answer is
25 "potentially." Is that correct?

S. Gupta (Cr.-Ex.) - 71

1 A. Yeah, and, you know, one other kind of
2 caveat that I will also add is that we see this in any
3 continuum of homelessness. So upkeep of spaces is
4 something that we come across routinely. Like so
5 people, for example, are in sheltered environments and
6 they have, unfortunately, no support services or no
7 upkeep opportunities. And that can create risks for
8 them. So like non-airconditioned environments, you
9 know, with people. And ---

10 222. Q. I -- sir ---

11 A. --- in enclosed rooms ---

12 223. Q. --- I am not meaning to cut you off. I
13 understand all of that but that's not what I am asking
14 about.

15 A. Yeah.

16 224. Q. I'm asking about the tent ---

17 A. So, yeah. So -- yes, so in this, I
18 would say this is outside like my scope of expertise,
19 to be perfectly honest. And I think we're just doing
20 conjecture and ---

21 225. Q. Sure.

22 A. --- like hypothetical scenario.

23 226. Q. Can I ask you this?

24 A. Go ahead.

25 227. Q. The protection afforded by tents, writ

S. Gupta (Cr.-Ex.) - 72

1 large, is not within your area of expertise, is it?

2 A. I think -- could you dig into that a
3 bit more for me?

4 228. Q. That's the whole question. The
5 protection of tents -- the protection afforded by
6 tents, writ large, is not something you have expertise
7 in?

8 A. Yeah, I -- like for me, protection from
9 physical, you know, like exposure to environments is
10 something that I have expertise in. Which,
11 specifically whether that be, you know, physical
12 structures, tents, you know, barriers, to -- from like
13 the human body to the external environment, is kind of
14 what I'm referencing here and mentioning here.

15 But, you know, like tent's maintenance,
16 tent's like permeability ---

17 229. Q. No, but I'm not asking about tent
18 maintenance, sir, again. So I am actually going to
19 suggest that we go off the record for a second here,
20 Ashley.

21 MS. SCHUIITEMA: Sure.

22
23 --- OFF THE RECORD
24
25

S. Gupta (Cr.-Ex.) - 73

1 BY MS. THAVARAJ:

2 230. Q. Dr. Gupta, before our break, we were
3 talking about the comments you made at Paragraph 16 of
4 your affidavit.

5 A. That's correct.

6 231. Q. I am going to have you turn to
7 Paragraph 16(b) in respect of privacy. Would you
8 agree that privacy in a tent can be, in some respects,
9 a double-edged sword? For example, if someone
10 overdoses while sleeping in a tent and nobody else is
11 in there, they may be less likely to be found?

12 A. Yeah, if they're sleeping alone in a
13 tent, it's similar to if they're sleeping alone in
14 their own home or I think they're in a closed room,
15 they would be less likely to be found.

16 232. Q. Okay.

17 A. Yeah.

18 233. Q. And -- sorry.

19 A. Yeah, compared to let's say they're
20 found in a public space or something like that.
21 Correct.

22 234. Q. Exactly, speaking in the context that
23 we're speaking in about this paragraph which is living
24 outdoors in a tent versus not, they'd be less likely
25 to be found in a tent if they're in the tent alone.

S. Gupta (Cr.-Ex.) - 74

1 Correct?

2 A. Correct. And if by itself. But again,
3 I'll, you know, like I do work with people that do
4 substances on a fairly regular basis. Often there's
5 something that is relevant, please stop me.

6 But often, people when they choose to use
7 alone outside, they do so in kind of like back
8 stairwells, alleys, individually. Whereas people
9 often say there's community that they find when they
10 use kind of in a group setting like in a tented
11 community. But I don't think that's exactly what
12 you're asking.

13 235. Q. Yeah.

14 A. But that -- that often reduces the
15 overdose risk is the ---

16 236. Q. Okay.

17 A. --- fact that people are in a communal
18 environment rather than kind of in a staircase
19 individually or in a back alley or so on.

20 237. Q. I understand but if someone overdoses,
21 you've agreed with me in that situation occurs?

22 A. Yeah, they haven't told anybody to
23 monitor on them and so on, correct. Yeah.

24 238. Q. Thank you. And do you agree generally
25 -- I think we did take down the affidavit, but you've

S. Gupta (Cr.-Ex.) - 75

1 -- obviously speaking about this from a health
2 outcomes perspective.

3 Do you agree that generally the
4 research you cite acknowledges that an environment --
5 encampment can provide ample opportunity for the
6 transmission of communicable diseases?

7 A. Would you repeat that, sorry?

8 239. Q. Yes. Do you agree that the research
9 that you cite acknowledges that an encampment
10 environment can provide ample opportunity for the
11 transmission of communicable diseases?

12 A. Is it like -- so you're asking me like
13 do I cite -- did I cite some research that says that
14 there's more ample -- like more chance for
15 transmission of infectious disease in an encampment
16 environment?

17 240. Q. Yeah, let me just -- the research you
18 cite says that. Do you agree that an encampment
19 environment can provide opportunity ---

20 A. Yeah, yeah.

21 241. Q. --- (indiscernible) these diseases?
22 You do?

23 A. Correct, yeah.

24 242. Q. Just because they are outside settings
25 doesn't mean they're not congregate settings ---

S. Gupta (Cr.-Ex.) - 76

1 A. Yeah, exactly, yeah.

2 243. Q. Okay.

3 A. And like you -- like often like and I
4 think some of the research actually kind of comments
5 on this. Like -- it's like it's very important to
6 have hygiene services and kind of toileting services
7 to prevent those risks.

8 244. Q. Okay. And even with those hygiene
9 services and toileting services, however, this is a
10 communal environment in which diseases can transfer?

11 A. Correct.

12 245. Q. Okay. Okay, sir, are you aware of the
13 bylaw itself that is in issue in this case?

14 Actually, I am so sorry, before we go to
15 that, can I just ask you one thing because you just
16 mentioned your sort of emergency room work and the
17 patients that you see in the hospital.

18 You would agree with me, correct, that those
19 interactions that you have, while I understand that
20 they inform the basis of your opinion in this report,
21 that those are not a representative sample of
22 interactions or of the experiences of these persons.
23 Correct?

24 A. Can you expand on that? I apologize.

25 246. Q. Yeah, I'll ask it more simply. Your

S. Gupta (Cr.-Ex.) - 77

1 experiences as an emergency room physician are not
2 generalizable to the experiences of homeless persons
3 or persons experiencing those issues? Being in the
4 emergency room is not a representative sample of those
5 issues?

6 A. Of issues related to homelessness?

7 247. Q. Let's use the examples that you were
8 speaking about earlier, just to make it easier for
9 you. For example, frost bite and gangrene and trench
10 foot. But I am asking the question more generally but
11 if you'd like to use a specific example ---

12 A. Yeah.

13 248. Q. --- on that (indiscernible).

14 A. You know, one thing I'll mention is
15 that like as emergency providers, often we are the
16 only kind of the most frequent kind of point of
17 contact for people experiencing homelessness. And
18 interestingly, kind of for people experiencing
19 homelessness across the spectrum. So again, like --
20 like that's where I'm just trying to ask for some
21 clarification.

22 But from our vantage point, we see people
23 like across the spectrum, not just -- like there are
24 people, for example, who work in shelter settings that
25 work only see people in shelters settings. People --

S. Gupta (Cr.-Ex.) - 78

1 they're outreach workers or encampment doctors that
2 only see encampment doctors -- encampment patients and
3 patients living in encampments.

4 But, you know, like kind of like from our
5 vantage point, we do see people across the spectrum.
6 So ---

7 249. Q. Similarly, just to (indiscernible) my
8 point to say ---

9 A. Yeah, go ahead.

10 250. Q. --- you only see people who come to the
11 emergency room?

12 A. Yes, I only see people who come to the
13 emergency department, correct.

14 251. Q. And from that perspective, it's not
15 representative or generalizable?

16 A. Like -- because like -- look -- like
17 there's well-documented literature that talk -- and
18 that I don't reference, I am happy to provide, that
19 says that like homeless patients frequent the
20 emergency department more frequently, often the only
21 point of contact.

22 And so, like I think as emergency providers,
23 we have probably one of the better bird's eye view of
24 kind of what's happening around homelessness in a
25 given community compared to non-emergency

S. Gupta (Cr.-Ex.) - 79

1 (indiscernible) providers.

2 But to your point, I only -- like in the
3 experience where it's based on my experience working
4 with people in the emergency department.

5 252. Q. Okay. Thank you. I expect you would
6 agree, Dr. Gupta, that homelessness is a result of a
7 complex set interaction of factors?

8 A. Correct.

9 253. Q. It's a complex public health problem?

10 A. Correct.

11 254. Q. I take it you might also acknowledge
12 that the solutions to homelessness are complex?

13 A. That's correct.

14 255. Q. Okay. And, sorry, I cut you off before
15 you answered but are you aware of the bylaw at issue
16 in this case?

17 A. I am not directly familiar. I know it
18 kind of broadly like but not in the specifics that you
19 might want to comment upon.

20 256. Q. That's fine. You haven't read it then?

21 A. No, I haven't read the bylaw.

22 257. Q. Okay. Are you aware -- and it's very
23 okay if you don't know specifics -- are you aware that
24 the bylaw is specifically about this -- the Kitchener-
25 Waterloo encampment site?

S. Gupta (Cr.-Ex.) - 80

1 A. Correct.

2 258. Q. Okay. And are you aware of the larger
3 context that the site is going to become a
4 construction site, it's intended at least to become
5 one in the next several months?

6 A. I am not aware and happy to like share
7 about like anything you need me to around that.

8 259. Q. Okay, so that is the context, sir, so
9 the Region's evidence, which I appreciate that you're
10 not aware of and that's what I'm telling you. The
11 Region's evidence is that the site is needed for the
12 building of a transit hub that's going to take place.
13 And that the site is needed for purposes related to
14 that construction within the next several months.

15 And that's the reason for the bylaw
16 providing a staged closure for the site. So that's
17 the Region's evidence. Do you understand?

18 A. I understand.

19 260. Q. Okay. And so now that you have that
20 information -- let me also say to you, I think, just
21 to make sure it's clear. The Region's evidence is
22 therefore that the bylaw is about transitioning
23 residents off of this space. It's not just about
24 closing the encampment or preventing people from
25 erecting tents or anything like that. But

S. Gupta (Cr.-Ex.) - 81

1 transitioning residents to allow the site to be used
2 for the construction purposes that the Region needs it
3 for. Do you understand that?

4 A. (Indiscernible).

5 261. Q. Okay.

6 A. Thank you for explaining, yeah.

7 262. Q. Okay. And so I appreciate, sir, that
8 you don't have direct knowledge; I've just told you
9 the facts. I mean, your role as an expert is to
10 provide opinions on stated facts. So this is the
11 Region's evidence, WRCLS may not necessarily agree
12 with it, of course, but that's the Region's evidence.

13 And so I am going to ask you some questions
14 now based on that evidence, okay? And I just want to
15 make sure we're crystal clear about what I'm asking.
16 I am not asking if you have personal knowledge but
17 I've given you some of the facts and I'd like you to
18 answer some questions based on that, okay?

19 A. I will try my best.

20 263. Q. Thank you. Would you agree that if you
21 were going to close an encampment and transition
22 people away from it, you would want to give people
23 plenty of notice.

24 A. Yes.

25 264. Q. Okay. You were aware of -- and I think

S. Gupta (Cr.-Ex.) - 82

1 you've at least spoken about a closure of a motel, so
2 not exactly the same thing. But you're aware of
3 displacements, let's say, of people that have taken
4 place in days or in a short number of months. You'd
5 agree?

6 A. Correct.

7 265. Q. Okay. And would you say or would you
8 agree rather, that that's different from the situation
9 where someone is being contemplated to -- or has been
10 given eight months and possibly more of notice?

11 A. I think you're saying like kind of like
12 a notice of two weeks is different than a notice of
13 eight months?

14 266. Q. Yes.

15 A. Okay. Yeah, I can -- from a timeline
16 perspective, yeah.

17 267. Q. And more notice is always going to be
18 better?

19 A. Again, like in the context of -- I am
20 not an eviction expert. I cannot comment on that kind
21 of to start off with.

22 So again, like, you know, like I will
23 mention eviction broadly like, you know, in my work,
24 is look like it as you mentioned kind of
25 (indiscernible) causes displacement and eviction can

S. Gupta (Cr.-Ex.) - 83

1 cause health challenges. And that's kind of I think
2 kind of like what I would prefer to speak to.

3 Because that's what I see, that's kind of
4 what I experience. So but -- but so -- and like I
5 don't know if you're -- are you asking me is eight
6 months kind of adequate notice?

7 268. Q. Sure, I mean, that's not what I was
8 asking. But I am asking whether many months of notice
9 would be beneficial if you needed to close an
10 encampment?

11 MS. SCHUITEMA: And Kartiga, would it be
12 helpful to explain what you mean by
13 "beneficial?" Or to give some examples so
14 that he can understand what you're asking?

15
16 BY MS. THAVARAJ:

17 269. Q. Dr. Gupta, do you need an explanation?
18 You didn't ask for one. But ---

19 A. Yeah, I'll just briefly mention, I
20 honestly like from my vantage point of like I don't
21 actually have expertise to comment on that.

22 270. Q. Okay, thank you. Okay, and so you've
23 made a number of points at Paragraph 17 of your
24 affidavit about the harms associated with evictions
25 and displacement.

S. Gupta (Cr.-Ex.) - 84

1 I take it you're saying you only commented
2 or you only intended to comment on the health ---

3 A. Correct.

4 271. Q. --- outcomes (indiscernible).

5 A. And the health -- the health outcomes
6 and the -- and the -- yeah, exactly.

7 272. Q. Okay.

8 A. And the determinants of health kind of
9 related to those. Like, so, you know, like disruption
10 and things like kind of secondary victimization that
11 happens, trauma, forced displacement. Those are kind
12 of what I'm commenting on.

13 I am not commenting on kind of the
14 logistics, the adequacy or any of those.

15 273. Q. Absolutely. But in terms of the harms,
16 you have some it seems person experience with forced
17 displacements. Would you agree that in that context,
18 more notice would be beneficial to mitigating the
19 harms that you observed?

20 A. Again, I am just trying to -- so as
21 long as it's, you know, like meets the needs of the
22 individuals that are being displaced and has, you
23 know, plans that works to make, like adequately meet
24 their needs into like kind of arguably more permanent
25 supportive housing. Yes.

S. Gupta (Cr.-Ex.) - 85

1 But time, unfortunately, can be very
2 variable for individuals experiencing homelessness.
3 So just in context, like we meet people that have been
4 chronically homeless for years and years. And until
5 they, you know, like meet their right plan with the
6 right provider, and, you know, a plan that works for
7 those -- that particular individual.

8 Often, they kind of go through this many
9 layers of revolving doors syndrome. Or they go
10 through some level of relative stability to only end
11 up homeless a few weeks, two months later.

12 274. Q. Okay. And so I am glad you actually
13 mentioned that. So you said they have plans to
14 adequately meet their needs because -- and again, you
15 may not be aware of this. Please let me know if you
16 are.

17 But the Region's evidence in this
18 application is that there's something called
19 "individual housing plans." And that these individual
20 housing plans were to be prepared for all of the
21 residents of the encampment that existed. They're
22 called "existing residents," the residents of the
23 encampment at the time the bylaw came into effect.

24 Were you aware of that, the individual
25 housing plans (indiscernible)?

S. Gupta (Cr.-Ex.) - 86

1 A. You need -- like I don't, like what do
2 the individual housing plans include?

3 275. Q. So they include -- let me speak to that
4 in a second. Let me just ask you first, so you're not
5 aware or you weren't made aware of this in preparation
6 of your affidavit?

7 A. I knew -- I knew of the individual --
8 like, you know, the concept of that. But that's kind
9 of I think kind of why I was mentioning. I don't know
10 the contents of the individual housing plans. I was
11 not made aware of those.

12 276. Q. Okay. So there are individual housing
13 plans and effectively, it's the Region's evidence that
14 for residents, existing residents at the encampment,
15 there's a team of, they're called "USWs," Unsheltered
16 Support Workers or Unhouse Support Workers, that are
17 going to the site, meeting with residents, providing
18 them information and developing housing plans that are
19 tailored to them specifically.

20 So that's something that you were aware of?

21 A. And if I may ask a follow-up question,
22 can I -- like is it permanent supportive housing that
23 they're being offered, or ...?

24 277. Q. There's a variety of supports but it is
25 an individualized plan to move residents off the site

S. Gupta (Cr.-Ex.) - 87

1 that responds to their needs at least.

2 A. Okay.

3 278. Q. And so that's -- I am just telling you
4 that's what the Region's evidence is. Okay?

5 A. Okay.

6 279. Q. Okay.

7 A. Okay, yeah. I -- I know kind of
8 broadly but I am not aware of the specifics or details
9 of the individual housing plans.

10 280. Q. Okay. Recognizing that you are not
11 aware of the details but now you are aware of the sort
12 of broad specifics, would you agree that that's the
13 type of plan that could assist with mitigating the
14 harms associated with displacement?

15 A. I may have to, unfortunately,
16 disappoint you again, where, like I am not in a --
17 again, I am -- I'll come back to an emergency room
18 doctor. The people that I meet often, you know, have
19 had like similar plans kind of -- at least kind of in
20 the emergency departments where I work -- that I
21 worked in, only to kind of come back to unsheltered
22 homelessness.

23 So I can't -- you know, like I can't like --
24 somebody like an expert that, you know, like the, you
25 know, works more specifically with individual to come

S. Gupta (Cr.-Ex.) - 88

1 up and relative individuals -- individualized plans
2 may be better suited to comment on this than I am.

3 But -- but so like, to me like again, this
4 is a bit out of my area of expertise as an emergency
5 department provider.

6 281. Q. Okay, sir, I understand that. I do.
7 And I take your point about sort of breaking the cycle
8 of homelessness but I am really focused on -- and I'm
9 only asking these questions because despite you not
10 having this expertise, you did include Paragraph 17 in
11 your affidavit.

12 A. Correct.

13 282. Q. And so I am just asking -- you made
14 some points in here about the harms associated with
15 evictions and displacement.

16 A. Yeah. And sorry, I apologize. Can I
17 interrupt you. I apologize I interrupted you.

18 283. Q. Yeah.

19 A. I'll just briefly mention like so that
20 point -- like -- like I -- unfortunately, as an
21 emergency department provider, again we see the harms
22 but not necessarily the benefits of, you know, like
23 specific plans.

24 So that's why I mentioned those points like
25 as harms associated with displacement that we

S. Gupta (Cr.-Ex.) - 89

1 experience. I did not -- and please let me know if
2 like you see somewhere -- where I comment on you know
3 like the specific plans causing these issues.

4 284. Q. Sure, no, that's fine. But you -- so
5 you're right, that you agree that there can be
6 benefits that you wouldn't see because that's not what
7 comes to the emergency room.

8 A. Correct, yeah.

9 285. Q. Yeah. And specifically in terms of
10 what you do see, my question is, is it possible that
11 individualized assistance with respect to a potential
12 eviction or displacement, can mitigate some of those
13 harms?

14 A. As long as it works with that
15 individual's needs and breaks the cycle of chronic
16 homelessness, yes.

17 286. Q. Okay, and in addition to breaking the
18 cycle of homelessness, specifically the harms that you
19 outline in Paragraph 17, they can mitigate those harms
20 as well?

21 A. Yes. If -- if -- again, that meets
22 those kind of criteria (indiscernible), yeah.

23 287. Q. Well, let's go through it in a little
24 bit of detail just to make it easy for you. So
25 paragraph, let's 17(e), "A perception of rights

S. Gupta (Cr.-Ex.) - 90

1 violations."

2 A. Yeah.

3 288. Q. If an individual is spoken to, they
4 have discussions, they're made aware of their rights,
5 they're made aware of the various options available to
6 them, that can mitigate the harms associated with a
7 perception of rights violation. Correct?

8 A. Yeah, and as they're given the choice
9 to choose where they're going, absolutely.

10 289. Q. Thank you. Great. And, for example,
11 with respect to -- you make an important point at
12 Paragraph 17(b) about losing belongings.

13 If a displacement of someone was done in an
14 individualized way, you could mitigate or avoid that
15 harm, right, of losing your belongings?

16 A. Yeah, is again, as long as it's done
17 with that individual's kind of -- yeah, the same kind
18 of caveat as I mentioned earlier.

19 290. Q. Absolutely, yes, and, sir, if it was
20 done with their individual -- with discussions with
21 them and their individual input and consent, then you
22 could mitigate those harms?

23 A. Yeah, and, yes.

24 291. Q. Thank you. And you speak about the
25 impact on mental health very understandably in

S. Gupta (Cr.-Ex.) - 91

1 Paragraph 17(a).

2 A. Mm-hmm.

3 292. Q. Similarly, if municipal authorities
4 took care and the teams took care to ensure that
5 people were going to a placement that was suitable for
6 them, that connections were maintained, etcetera, you
7 could mitigate those harms, the harms that you
8 describe in subparagraph, correct?

9 A. Yeah.

10 293. Q. Okay. And this kind of harm mitigation
11 does make a difference. You would agree it's -- it
12 creates a -- I mean, it's harm mitigation. And so I
13 assume you're not disagreeing that it's not beneficial
14 to the person receiving it?

15 A. Yeah, and, you know, like -- could you
16 actually repeat, sorry, the question that you ---

17 294. Q. No, that's okay. I was very simply
18 asking you to agree that these -- if harm in these
19 categories was reduced, that is beneficial for the
20 person. I don't think you disagree.

21 A. Correct.

22 295. Q. Okay.

23 MS. SCHUITEMA: I wonder if now would be a
24 good time to ask where you're at because we
25 do have -- I know Mercedes said she might

S. Gupta (Cr.-Ex.) - 92

1 have some questions and we'll have some
2 redirect.

3 MS. THAVARAJ: Maybe give us a minute,
4 Ashley, like ---

5 MS. SCHUIITEMA: Sure.

6 MS. THAVARAJ: --- literally? And we'll
7 come back to you.

8 MS. SCHUIITEMA: Okay.

9 MS. THAVARAJ: Those are all my questions
10 for you, Dr. Gupta, except if I have any
11 questions arising out of your counsel's re-
12 examination or Ms. Perez's examination if
13 she has any. I want to thank you for your
14 time and your very important work that you
15 are currently doing in the community. Thank
16 you.

17 THE WITNESS: Thank you.

18 MS. THAVARAJ: Everyone, I'll just go off
19 the record for a quick second and talk about
20 timing.

21
22 --- OFF THE RECORD

23
24 MS. SCHUIITEMA: Thank you. Okay, Dr. Gupta,
25 I have just a few like very brief re-direct

S. Gupta (Re-Ex.) - 93

1 questions.

2
3 RE-EXAMINATION BY MS. SCHUIITEMA:

4 296. Q. You were just recently asked some
5 questions and in response you asked are they being
6 offered permanent supportive housing? And you talked
7 about how you have some patients who you've seen be
8 offered things and then they cycle back.

9 And you talked about breaking the cycle of
10 homelessness. Can you explain to us in your
11 experience about -- can you explain why you asked if
12 they were being offered permanent supportive housing?

13 A. Yeah, so again, in the emergency
14 department like I mentioned, we see people kind of
15 like across the spectrum of homelessness. And we see
16 a lot of people who are in crisis like especially
17 people like who are completely destabilized come in
18 frequently, repeatedly, repeatedly.

19 And then every so often, they stop coming
20 and after several weeks to months, they might present
21 for something completely unrelated.

22 And often if you ask them what changed? You
23 know, like what happened? It's usually one of two
24 things, either they got supportive housing or they
25 were incarcerated. It's usually one of those two

S. Gupta (Re-Ex.) - 94

1 things.

2 But it speaks to kind of the power of
3 supportive housing and that's been well-validated in
4 the literature as kind of one of the few breakthrough
5 solutions to, you know, like the complex problem of --
6 and of kind of the chronic homelessness.

7 But as an emergency doctor, that's kind of
8 what informs me asking about that. Because all --
9 very frequently like, you know, the norm, like we see
10 somebody who is offered temporary housings or
11 temporary shelter.

12 Like housing is not something that I ever
13 like, you know, can see being offered out of the
14 emergency department with temporary shelter. And very
15 frequently, kind of, you know, it -- that doesn't
16 change the pattern of visits, pattern of the care that
17 we provide to them.

18 Because often, you know, like it's -- it's
19 -- it's described kind of the relative instability
20 that they're in.

21 297. Q. Thanks. And when you see that pattern
22 continuing, you talked about temporary forms of
23 housing. Could you elaborate on what those temporary
24 forms are that you see where people are cycling back?

25 A. Yeah, most frequently it's emergency

S. Gupta (Re-Ex.) - 95

1 shelters or drop-ins and -- or things like that.
2 Sometimes they're often offered congregate shelter
3 settings. So shelters, for example, that's dorm room-
4 styled or the mat style kind of format.

5 And then, you know, like frequently people
6 will be like "This doesn't work for me" or, you know,
7 especially people kind of with mental health issues.
8 Or, institutional or structural challenges, meaning,
9 you know, they've had multiple sorts of restrictions
10 in the past.

11 Then they have, you know, a disability that
12 limits their mobility going upstairs or other things
13 or that. And they're usually kind of either choose to
14 leave the shelter or further displaced and further
15 disenfranchised from like the institutional system.

16 Frequently, like people say I would rather,
17 you know, not be in a shelter or, you know, get harmed
18 in an X, Y, Z way because of kind of what they are
19 being offered in that setting, and how unsafe it's
20 been for them.

21 298. Q. Okay, and this is, I think, probably my
22 last question. But in your clinical experience, do
23 you have patients who have been offered motels?

24 A. Yeah, again, at least kind of like
25 where I practice, there were kind of shelter motels

S. Gupta (Re-Ex.) - 96

1 that were started especially in the context of the
2 COVID pandemic.

3 Many of them closed down after and, you
4 know, there's a few that may still be operating. I am
5 not actually fully aware. But there are few still
6 maybe operating. But, yes, I am aware of people that
7 were put into kind of like shelter motels.

8 299. Q. Okay, when you were speaking about ---

9 MS. THAVARAJ: I'm sorry, I am going to
10 interrupt. That wasn't a re-direct question
11 but I didn't object to it. But if there is
12 further questions resulting from his answer
13 just now, I am going to object. If you have
14 other re-direct questions though, I am
15 certainly not objecting.

16 MS. SCHUIITEMA: Okay. I am good, actually.
17 That's fine. Thank you, Dr. Gupta, very
18 much.

19 THE WITNESS: Thanks.

20 MS. THAVARAJ: I have no questions on my
21 end. So, thank you, Dr. Gupta. That wraps
22 up your examination at least by the Region.

23
24 --- ADJOURNED
25

S. Gupta (Re-Ex.) - 97

THIS IS TO CERTIFY that the foregoing
is a true and accurate transcription of
my recordings and notes, to the best of
my skill and ability.



Barbara A. Pollard
Certified Court Reporter

Photostatic copies of this transcript are not
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and accordingly are in direct violation of Ontario
Regulation 587/91, Courts of Justice Act, January 1,
1990.

Court File No. CV-25-00000750-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

THE REGIONAL MUNICIPALITY OF WATERLOO

Applicant

and

PERSONS UNKNOWN AND TO BE ASCERTAINED

Respondents

APPLICATION UNDER Rule 14.05 of the *Rules of Civil Procedure*

This is the Cross-Examination of **Dr. Sahil Gupta** on his affidavit dated August 15, 2025, taken via Zoom videoconference on consent of the parties on January 7, 2026.

APPEARANCES:

KARTIGA THAVARAJ, Ms. Counsel for the Applicant
GRETA HOAKEN, Ms.

ASHLEY SCHUITEMA, Ms. Counsel for the Respondents
JOANNA MULLEN, Ms.
CHARLOTTE CAHIL, Ms. Student-at-Law

MERCEDES PEREZ, Ms. Amicus Curiae

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1

S. Gupta (Cr.-Ex.) - 3

1 JANUARY 7, 2026

2
3 DR. SAHIL GUPTA, AFFIRMED

4 CROSS-EXAMINATION BY MS. PEREZ:

5 1. Q. Good afternoon, Dr. Gupta. My name is
6 Mercedes Perez. I've been appointed by the court as
7 an Amicus in this matter. My role is to assist the
8 court from the perspective of people who may reside at
9 the encampment in Kitchener-Waterloo but who may lack
10 capacity or for some of the -- to retain counsel or
11 for some other reason, haven't been able to retain a
12 lawyer.

13 So my job is to -- I'm not representing
14 those people directly but my job is to assist the
15 court by ensuring that all evidence and legal argument
16 that might be relevant to that particular population
17 is before the court in this matter.

18 And just to -- for the purposes of the
19 record, I am just going to note that this cross-
20 examination is continuing at the same -- on the same
21 date and time as the Region of this cross-examination
22 of you on the affidavit.

23 And you were already sworn earlier in the
24 day, so we're not going to do that again. Okay?

25 A. Thank you.

S. Gupta (Cr.-Ex.) - 4

1 2. Q. And similarly, if I ask you a question
2 and you need me to rephrase or explain or repeat, feel
3 free to let me know.

4 A. Thank you.

5 3. Q. I don't think I'll have too many
6 questions because many of my questions were already
7 asked or answered in some way earlier today.

8 I just -- first of all, I wanted to clarify.
9 At Paragraph 4 of your affidavit, you list your expert
10 qualifications. And I am just wondering, as an
11 emergency medicine physician since 2018, have you also
12 assessed and treated persons experiencing serious
13 mental illness such as schizophrenia or bi-polar,
14 schizoaffective disorder, depression, anxiety
15 disorders?

16 A. Yes, that -- yes, I have.

17 4. Q. Okay. And in your work as an emergency
18 medicine physician, have you also assessed and treated
19 people who are coping or struggling with cognitive or
20 intellectual disabilities?

21 A. Yes.

22 5. Q. And is it part of your work as an
23 emergency medicine physician to assess and treat
24 people who might be struggling with co-morbid
25 conditions that may include a mental health and/or

S. Gupta (Cr.-Ex.) - 5

1 cognitive or intellectual issue along with the
2 addiction issues that you mentioned in your affidavit?

3 A. That is correct.

4 6. Q. And I also had some questions about
5 some of the studies you cited. They were already
6 asked but I did have a question that's a little bit
7 different.

8 It comes from the answer you gave earlier
9 that there is limited literature, either no literature
10 or limited literature that might compare the outcomes
11 of people living unsheltered outdoors and those living
12 in an encampment with some form of shelter, such as a
13 tent or some other type of similar shelter.

14 And my question is, in that context where we
15 have a specific problem without a body of academic
16 research to analyze it and help us understand it, what
17 are the well-recognized or accepted ways that we would
18 go about understanding the issue and coming up with
19 policy solutions?

20 A. Yeah, thanks for asking that question.
21 So first again, I am going to comment on kind of the
22 clinical ends around these issues rather than the
23 policy lens.

24 But it's -- to -- like, you know, there's an
25 evidence hierarchy that we often use in medicine at

S. Gupta (Cr.-Ex.) - 6

1 least to guide answers and solutions. So often if
2 there's absence of kind (indiscernible) forms
3 literature or evidence, then we kind of go on things
4 like evaluations, reports. What we would call "grey
5 literature" to kind of guide. You know, some form of,
6 you know, like signals. Some sort of understanding of
7 how can we guide decision-making for individuals that
8 we see in our clinical practice.

9 And then we often ---

10 7. Q. Let me just jump in and did you say
11 "grey literature?"

12 A. G-R-E-Y, grey literature.

13 8. Q. Okay.

14 A. Yeah.

15 9. Q. Thank you.

16 A. Which like, broadly-speaking, you know,
17 may not be peer-reviewed literature. So which may not
18 exist in a journal, peer-reviewed journal or something
19 like that, but it exists in, like, a programmatic
20 evaluation, outcomes report, things like that. It's a
21 lesser form of evidence.

22 But it's when in the absence of kind of
23 well-established literature or forms of published
24 studies given in a clinical context, clinical
25 question, those kind of can help sometimes guide

S. Gupta (Cr.-Ex.) - 7

1 decision-making.

2 But more frequently, it's relying on direct
3 clinical encounters and experience. So, you know,
4 day-in, day-out, kind of what you're seeing is to how
5 the individuals that, you know, speak to you, trends
6 as a clinician you start to observe, guide often the
7 decision-making that you're taking.

8 Sometimes those actual experiences are
9 published in things like case series or case reports.
10 I will be honest, I did not come across specific ones
11 for this particular scenario. But those are, like in
12 the absence of kind of published evidence or published
13 policy or literature, often in clinical context we're
14 relying on direct clinical experience.

15 10. Q. And would it also be a well-recognized
16 and accepted approach to rely on qualitative data?

17 A. Yeah, and qualitative data makes --
18 makes up that, like -- like at least in the medical
19 world, like -- like that evidence hierarchy may --
20 includes qualitative reports, qualitative studies.

21 So depending on that is not outside of that
22 evidence hierarchy that I am referencing.

23 11. Q. Right. And so a study like the MARCO
24 study which you agreed was not based on random
25 sampling but is a study that exists, would that --

S. Gupta (Cr.-Ex.) - 8

1 would it still be a well-recognized and accepted
2 approach to rely on the findings of that type of study
3 to understand a problem? Yeah, to understand a
4 problem and come up with solutions.

5 A. Yeah, and I think one limitation, at
6 least of the kind of MARCO study is it's not
7 necessarily peer-reviewed. At least it's kind of, as
8 far as I see, so that's kind of where I was mentioning
9 the grey literature component.

10 So I differentiate in my clinical practice
11 peer-reviewed versus grey literature. Grey literature
12 includes programmatic evaluations, reports, summaries,
13 anything really that kind of helps us solve a problem.

14 And then you look at how it is done. You
15 look at kind of like, you know, what -- deep, you know
16 -- you know, like the understanding of the --
17 understanding of, you know, like the rigour of kind of
18 the approach they use, the qualifications of the
19 researchers, the reputation of the cite and the place
20 that's conducting the study, to kind of help inform
21 whether or not you're going to rely, especially on
22 nonpeer-reviewed information.

23 But a study like MARCO does that. Like it's
24 -- it's done by like a very reputable, you know, body
25 of -- that conducted it with well-established

S. Gupta (Cr.-Ex.) - 9

1 researchers undertaking kind of the work that they do.
2 So again, it's not -- it's one of many pieces of
3 elements that we're using to guide decision-making.
4 Or, more often, inform the clinic -- the context of
5 kind of the problem statement.

6 Like because often, like has been mentioned,
7 these are individuals that are hard to reach. These
8 are individuals that face structural vulnerability,
9 and they're hard to study. And the problem, yeah, you
10 know ---

11 12. Q. That goes to another question I am
12 going to have but before I get to that, just on the
13 same topic about sources of information in the absence
14 of a literature about -- an established literature
15 about a problem, would it also be well-recognized and
16 accepted that in addition to your own clinical
17 experience, collaboration with other experts who have
18 experience in the area, would also be an accepted
19 source of information?

20 A. Yeah, absolutely, it would be.

21 13. Q. So you mentioned, for example, in your
22 evidence, and I think it's in your affidavit about
23 some of your work with the health equity group, for
24 example. That would be a source of information to
25 help understand a problem that otherwise has not been

S. Gupta (Cr.-Ex.) - 10

1 adequately studied?

2 A. That's right. Yeah, and again, the
3 evidence are -- often instructs us around, you know,
4 the expert decision-making, the expert consensus as
5 forms of evidence in the absence of, you know, other
6 forms of evidence when you're looking to help guide
7 and understand a problem.

8 14. Q. Okay. And then just going back to the
9 comment you just made about this population being
10 difficult to study.

11 So first of all, my understanding that a
12 gold-standard approach to conducting scientific
13 research would require, for example, double-blind
14 methodology with different cohorts being studied under
15 -- you know, with a placebo and not a placebo,
16 etcetera. Is that sort of a gold-standard approach?

17 A. Yeah. It's -- it's the highest form of
18 answering kind of a clinical question using scientific
19 inquiry in the health world.

20 15. Q. Right and then in this particular
21 context, in addition to maybe any practical problems,
22 there would be ethical problems with trying to impose
23 that kind of methodology on this population. Would
24 there not?

25 A. That's correct.

S. Gupta (Cr.-Ex.) - 11

1 16. Q. Right, because it would require, for
2 example, having a group where you deny services and
3 you deny housing and then matching that with another
4 group that gets all those services. So that would
5 raise ethical concerns, correct?

6 A. That's correct.

7 17. Q. Okay, so this particular population, in
8 terms of the hierarchy of evidence that you mentioned,
9 there are limitations. But that doesn't mean that we
10 can't draw conclusions, right, based on the other
11 sources of information you mentioned, like clinical
12 experience or collaboration?

13 A. That's right. Like a study like that
14 would -- like, and again, to answer. I'd like to
15 confirm the question like because we're not comparing
16 shelter versus unsheltered. I think we're comparing
17 unsheltered, you know, like encampment or some sort of
18 physical structure versus no, nothing, like kind of
19 thing. Like, you know, like ---

20 18. Q. Yeah.

21 A. --- you know, like street or in front
22 of like a vent screen or something like that. Like,
23 that's not a study that would ever happen.

24 19. Q. Okay. And then just turning to
25 Paragraph 9, I also had some questions about

S. Gupta (Cr.-Ex.) - 12

1 definitions. But I just -- Ms. Thavaraj asked you a
2 lot about this already. So I just wanted to be clear
3 for my own understanding.

4 For Paragraph 9, when you list common
5 medical and psychological conditions associated with
6 homelessness, in your affidavit you specifically say,
7 "associated with living unsheltered or rough."

8 So I am just trying to understand, this list
9 of risks, is that -- are you talking about homeless
10 people generally who are outside or are you speaking
11 specifically about homeless people with no shelter at
12 all? In other words, not in a tent, not in some sort
13 of shelter. I was just trying to understand your
14 answer.

15 Is this just a comment on just general risks
16 to homeless people?

17 A. So this does -- like, you know, like
18 these risks are higher for unsheltered homelessness,
19 both encampment and non-encampment, like -- like kind
20 of settings. But I think at least like -- I
21 appreciate it's not necessarily as well-delineated in
22 the affidavit perhaps.

23 But is that there's a spectrum around the
24 unsheltered component of those risks. So and like
25 again, individuals who are unsheltered and don't have

S. Gupta (Cr.-Ex.) - 13

1 any kind of encampment, face higher kind of relative
2 risk around those particular issues compared to
3 individuals, in my clinical experience, than
4 individuals that do not.

5 20. Q. Okay, thank you. And then at Paragraph
6 9(e), you specifically speak about mental health
7 crises and situational distress. And you say that it
8 can lead to exacerbation of mental health symptoms
9 such as panic, anxiety, emotional distress and general
10 dysregulation.

11 And I am just wondering, if the exacerbation
12 of mental health symptoms would also include
13 exacerbation of other serious mental health symptoms
14 such as psychosis, delusional thinking, mania, for
15 example?

16 A. Yes, it would.

17 21. Q. Okay. And ---

18 MS. SCHUITEMA: Sorry, can I interrupt for
19 just one second. I just want to make sure
20 that Dr. Gupta still has like a version of
21 the affidavit in front of him because the
22 (indiscernible) is screensharing. Sorry to
23 interrupt but I just want to make sure.
24 Just in case if he wants to look at it. Do
25 you have a version in front of you, Dr.

S. Gupta (Cr.-Ex.) - 14

1 Gupta?

2 THE WITNESS: Yeah, I -- I do have it pulled
3 up ---

4 MS. SCHUIITEMA: Okay, perfect.

5 THE WITNESS: If it's helpful, we can
6 definitely screenshare alongside.

7 MS. PEREZ: Okay, so I have a copy in front
8 of me but you have a copy, too. If you need
9 a second or a minute to review anything I am
10 referring you to, just let me know.

11 THE WITNESS: No, I have it.

12 MS. PEREZ: I'm just assuming in my own head
13 you had it in front of you.

14 THE WITNESS: Yeah, I do. Yeah.

15 MS. PEREZ: Okay.

16
17 BY MS. PEREZ:

18 22. Q. And then also just staying with
19 Paragraph 9(e), the next point you put here is:

20 "... Severe sleep deprivation leading to
21 dysregulation of both body and mind ..."

22 So just correct me if I am wrong, but I
23 am taking this to mean that the mental health crises
24 that can emerge would be even further exacerbated by
25 the sleep deprivation?

S. Gupta (Cr.-Ex.) - 15

1 A. That's right. Yeah.

2 23. Q. That's correct? That's the correct
3 understanding?

4 A. Very much.

5 24. Q. Okay. At Paragraph 16, so this is
6 where you are talking about the benefits of access to
7 some form of shelter. And in 16(a), you note that:

8 "... A tent can provide protection from
9 the elements ..."

10 And I heard you say earlier that you're
11 not an expert on tents. But just in your experience
12 as an ER physician and in your collaboration with
13 other ER physicians and experts who interact with this
14 population, does sleeping in a tent increase the risk
15 of someone developing trench foot relative to a person
16 who is forced to sleep unsheltered outdoors? Or can
17 you say, like ---

18 A. Yeah, again, probably I cannot say.
19 But like ---

20 25. Q. Okay.

21 A. --- clinically, if I -- yeah, I would
22 say I cannot say.

23 26. Q. Okay. So let me ask a question another
24 way and if you can't answer it, then just tell me you
25 can't answer it.

S. Gupta (Cr.-Ex.) - 16

1 Does sleeping in a tent itself, does that
2 provide an environment that would increase the risk of
3 trench foot?

4 A. It would not increase the risk of
5 trench foot compared to sleeping (indiscernible).

6 27. Q. Okay. And then also at Paragraph
7 16(a), you note that having a shelter, like a tent,
8 can limit direct exposure to adverse weather
9 conditions and therefore provide some protection
10 against things like heat exhaustion.

11 So in your experience, does a tent -- I am
12 taking from this paragraph that your experience tells
13 you that being in a tent in summer when it's really
14 hot outside, doesn't increase the risk of someone
15 developing heat exhaustion?

16 A. Yeah, in my clinical experience, I, for
17 example, don't see more individuals come in who are in
18 tents with heat exhaustion compared to people that are
19 not in tents.

20 28. Q. Okay. And then are you able to comment
21 though on the risk of -- I might mispronounce this but
22 I am going to try my best. The risk of rhabdomyolysis
23 which I understand is a skeletal-muscle tissue
24 breakdown condition. You are aware of that condition?

25 A. Correct, yeah.

S. Gupta (Cr.-Ex.) - 17

1 29. Q. Okay. And so in your clinical
2 practice, do you see a higher risk of that condition
3 developing in someone who is sleeping in a tent
4 outdoors in an encampment as opposed to people living
5 unsheltered in the street?

6 A. I don't see the difference.

7 30. Q. And what about kidney failure?

8 A. No.

9 31. Q. Okay. And in your clinical experience
10 and any other experience that you're bringing to this
11 proceeding, are you able to tell us about the risk of
12 Hepatitis A outbreaks in encampments?

13 A. I don't have the experience on that
14 particular ---

15 32. Q. Okay, so are you aware of any Hepatitis
16 A outbreaks within encampments, either in your region
17 or anywhere else in Canada?

18 A. I am not.

19 33. Q. And are you able to say whether there's
20 a greater risk within an encampment to the spread of
21 viruses, bacterial, fungal or parasitic infections
22 versus people who sleep unsheltered outdoors?

23 A. So compared to people that sleep
24 outdoors, so the congregation, whether that in an
25 encampment environment or elsewhere without good

S. Gupta (Cr.-Ex.) - 18

1 hygiene services is a higher risk for infectious
2 diseases to develop.

3 But I -- could you repeat your question? So
4 like that's something that is very factual and well-
5 studied.

6 34. Q. Right.

7 A. But ---

8 35. Q. And so the answer to that I think you
9 mention this in your affidavit is that encampments
10 require hygiene services?

11 A. They require a good hygiene, toileting,
12 handwashing services to prevent infectious disease
13 from spreading.

14 36. Q. So if you have an encampment with good
15 hygiene services like Porta Potties and handwashing
16 stations, would that make the risk at the encampment
17 less than the risk of the spread of viruses,
18 bacterial, fungal and parasitic infections among
19 people sleeping rough outside?

20 A. I don't -- if I may apologize from
21 being obstructive but ---

22 37. Q. No, that's okay.

23 A. You know, I don't really know like if
24 Porta Potties are sufficient, for example, versus as
25 -- but generally-speaking, good hygiene services or

S. Gupta (Cr.-Ex.) - 19

1 requirements improve, like, you know, the reduction of
2 communicable disease spread in encampments.

3 38. Q. Okay. And as a doctor, can you tell us
4 whether Tuberculosis spreads more easily within an
5 indoor shelter environment versus an outdoor tent
6 encampment?

7 A. And without any direct clinical
8 experience of that, with like having medical knowledge
9 of Tuberculosis, it would spread more rapidly in an
10 indoor environment than an outdoor tenting
11 environment.

12 39. Q. And is it true that the risk of
13 transmission of Tuberculosis outdoors is actually
14 quite rare?

15 A. That's correct.

16 40. Q. Okay, and even if, for example, there's
17 someone who has infectious Tuberculosis who is sharing
18 a tent with another person, the risk would be
19 contained to that other person?

20 A. Outside my clinical expertise
21 (indiscernible).

22 41. Q. Okay. Okay. Can you talk about some
23 of the benefits to persons who have addiction issues
24 if they're residing in an encampment? And I am just
25 wondering if residing at an encampment, would that --

S. Gupta (Cr.-Ex.) - 20

1 and if it's not a question you can answer, just let me
2 know.

3 But the -- would it increase the risk of
4 transmission of infections, for example, just by
5 virtue of being in an encampment as a drug user?

6 A. No, like compared to an indoor
7 environment or compared to unsheltered or just
8 generally?

9 42. Q. I guess with -- those are our two
10 scenarios so maybe you can address both relative to
11 using within a shelter and using outdoors ---

12 A. Yeah.

13 43. Q. --- unsheltered.

14 A. Yeah, I don't know if it actually would
15 impact much of the risk. We do know, for example,
16 many sheltered environments -- this is something I can
17 comment on -- don't have -- have fairly restrictive
18 policies around substance use.

19 So, for example, there's no substances
20 allowed on-site or other things like that. And often
21 use is rushed or not done in a safe manner and which
22 increases both overdose and non-overdose risks like
23 infections and transmission and things like that.

24 But I think that's probably all I can
25 comment on there.

S. Gupta (Cr.-Ex.) - 21

1 44. Q. Okay. And I am almost at the end.
2 There was some evidence from Dr. Koivu in her
3 affidavit and we can find this if you need it, but
4 just generally, she made the suggestion that residing
5 in an encampment can increase a person's drug use or
6 negatively impact their recovery because they're
7 exposed to drug use or drugs that are more accessible.

8 And I am just wondering if you can comment
9 on that based on your experience?

10 A. Unfortunately, like, you know, like I
11 don't personally know any evidence to kind of guide
12 that. But like I think right now at least the
13 practice settings that I work in are -- often operate
14 in drug use and substance use is kind of at a crisis
15 level. And so I -- I -- I haven't noted kind of
16 differentiations clinically necessarily.

17 But like there's exposures to substance use
18 in shelters and outside shelters both in my clinical
19 experience.

20 45. Q. And have you seen in your clinical
21 practice any examples or evidence that people using
22 drugs within an encampment, even if they're opioid
23 users, are going to turn to methamphetamine, just to
24 help them stay awake? Because they have, for example,
25 a fear of falling asleep within the encampment?

S. Gupta (Cr.-Ex.) - 22

1 A. I have not.

2 46. Q. Those are all my questions, thank you.

3 MS. SCHUITEMA: I am just going to take one
4 minute to look at my notes. Just give me
5 one second. Okay, I don't have any redirect
6 from that. Thank you, Dr. Gupta. I
7 appreciate your time.

8 THE WITNESS: Thank you, all.

9 --- ADJOURNED

S. Gupta (Cr.-Ex.) - 23

THIS IS TO CERTIFY that the foregoing
is a true and accurate transcription of
my recordings and notes, to the best of
my skill and ability.



Barbara A. Pollard
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EXHIBIT “A”

AJPM FOCUS

INCLUSIVITY IN PEOPLE, METHODS, AND OUTCOMES

REVIEW ARTICLE

Unsheltered Homelessness and Health: A Literature Review

Jessica Richards, PhD, Randall Kuhn, PhD



Context: In recent years, cities across the world have seen widespread growth in unsheltered homelessness, in which a person sleeps in a place not meant for human habitation such as cars, parks, sidewalks, and abandoned buildings. It is widely understood that people experiencing homelessness have poorer health outcomes than the general population. Less is known about the health of people who are unsheltered, yet they may be exposed to greater health risks than their sheltered counterparts. The purpose of this literature review is to evaluate and summarize the evidence on unsheltered homelessness and health.

Evidence Acquisition: A literature search was conducted using PubMed to identify publications on unsheltered homelessness and health. A total of 42 studies were included for review.

Evidence Synthesis: Unsheltered populations experience higher rates of chronic disease, serious mental illness, and substance abuse than sheltered populations. Unsheltered homelessness is strongly associated with chronic homelessness that exacerbates serious mental illness and substance use, which is often co-occurring. Despite having large unmet health needs, unsheltered populations have lower healthcare utilization and often lack health insurance.

Conclusions: Evaluating the impact of shelter status on health outcomes has important implications for the allocation of housing and health services. Longitudinal studies are needed to examine the relationship between the duration of sheltered and unsheltered homelessness and health outcomes and explore the mediating mechanisms that lead to poor health among unsheltered populations. Despite these limitations, our results also suggest an urgent need to address the unique and severe challenges facing unsheltered populations and the need for intervention approaches that are sensitive to these unique disease burdens.

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CONTEXT

In recent years, cities across the world have seen widespread growth in unsheltered homelessness.¹ Above and beyond the epidemiologic risks associated with homelessness itself,^{2–4} unsheltered individuals may experience additional disease burdens relating to exposures such as violence, exploitation, weather, pollution, and poor sanitation. Yet, few studies have established the health consequences of unsheltered homelessness, much less their

From the Department of Community Health Sciences, Jonathan and Karin Fielding School of Public Health, University of California Los Angeles, Los Angeles, California

Address correspondence to: Randall Kuhn, PhD, Department of Community Health Sciences, Jonathan and Karin Fielding School of Public Health, University of California Los Angeles, 650 Charles East Young Drive South, Los Angeles CA 90095-1772. E-mail: kuhn@ucla.edu.

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extent or underlying mechanisms.⁵ This literature review evaluates and summarizes the small but growing body of literature on health outcomes among unsheltered homeless adults, specifically in comparison with those who are sheltered.

The past decade has seen a sizable increase in the proportion of the U.S. homeless population who are unsheltered. The U.S. Department of Housing and Urban Development defines an individual as homeless if they lack a fixed, regular, and adequate nighttime residence.¹ Within this category, those who sleep in a public or private place not meant for human habitation (e.g., street, tent, or other makeshift shelters) are considered unsheltered. According to the U.S. Department of Housing and Urban Development's Annual Homeless Assessment Report, the unsheltered homeless population increased by 30% from 2015 to 2020, even as the sheltered homeless population declined by 10%. Therefore, the share of unsheltered persons nationwide rose from 31% to 39%. Aggregate data mask wide geographic variations in the distribution of unsheltered homelessness, with higher rates in the Western U.S. Although it is widely assumed that unsheltered homelessness results from warmer weather, Figure 1 suggests a simpler relationship whereby localities with more shelter beds will have a lower share of their homeless population unsheltered.⁶ Indeed, New York City had much higher rates of unsheltered homelessness in the 1990s, which were reduced because of a concerted effort to build

shelters and engage clients.⁷ Recent increases in unsheltered homelessness partially track a series of rulings by the U.S. 9th Circuit Court of Appeals, which struck down urban camping prohibitions until shelter beds were made available to house the entire homeless population.⁸

Countries define and measure homelessness differently, making cross-country comparisons of unsheltered homelessness difficult. The definition of homelessness varies by country, and identification of the unsheltered homeless population is beset by limited data sources and methodologic challenges.⁹ In some countries, the definition of homelessness may include only people who are unsheltered (e.g., Japan) and unsheltered and sheltered populations (e.g., U.S.) or be applied broadly to also include precariously housed populations (e.g., Australia). Countries with a more inclusive definition of homelessness tend to report a higher incidence of homelessness.¹⁰ Although unsheltered persons are commonly included in official definitions of homelessness, they are often not separately identifiable in national indicator data outside of the U.S.¹¹ Unsheltered homelessness has been referred to as street homelessness,¹² absolutely homeless,¹³ rooflessness, sleeping rough,¹⁴ or long grassing,¹⁵ and in turn, individuals have been referred to as rough sleepers, street/pavement dwellers, and encampment residents. Many individuals may also live in both sheltered and unsheltered locations at different points in time or even at the same time.¹⁶ These differences in operationalizing

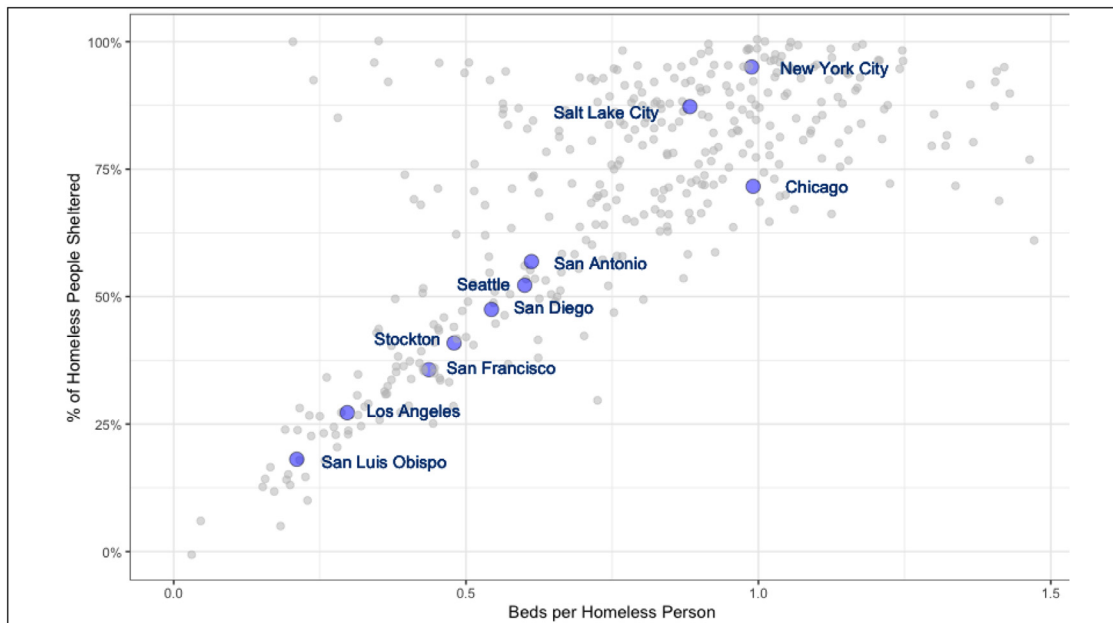


Figure 1. Relationship of homeless shelter bed inventory with unsheltered homelessness, U.S. Continuums of Care, 2020.

Source: U.S. Department of Housing and Urban Development. Point-in-time count and housing inventory Count Data; 2020. HUD Exchange. <https://www.hudexchange.info/programs/hdx/pit-hic/>.

homelessness will be considered when drawing comparisons across studies.

Where possible, we focus on studies that disentangle the impacts of unsheltered homelessness from confounding factors associated with unshelteredness. Unsheltered persons are more likely to be non-Hispanic White, male, and veteran than those who are sheltered and have a history of incarceration or foster care.^{5,17–20} Duration may also serve as a confounder because unsheltered homelessness is associated with prolonged and more frequent episodes of homelessness.^{5,17,18,20}

This review pays particularly close attention to chronic health conditions affecting older adults. Recent studies have framed the long-term consequences of homelessness in terms of accelerated aging because of repeated exposure to deprivation and disease, as reflected in the early onset of geriatric conditions and surgical complication risks often occurring decades sooner than in housed older adults.^{21,22} The population of older homeless adults (aged ≥ 50 years) is also growing in the U.S. owing to ongoing cohort effects.²³

EVIDENCE ACQUISITION

We organized this literature review following Fazel and colleagues' 2014 review of health outcomes for the broader homeless population.² Results were grouped into the following health outcomes: mortality, noncommunicable diseases, reproductive health, communicable disease, mental health, substance abuse, health services utilization, and injuries.

Search Strategy

The literature search strategy and study selection are summarized in Figure 2. A literature search was conducted in May 2020 using PubMed to identify publications on unsheltered homelessness from 1990 through 2020. Combinations of relevant keywords including unshelter* and rough sleeper* and street homeless* were used to capture variations of unsheltered homelessness. A total of 13,415 publications were identified. Keywords for each search are listed in Appendix Table 1 (available online). Grouping, deduplication, and coding were conducted in EndNote to minimize the risk of errors or lost data. The reviewer (JR) consulted with an experienced biomedical staff librarian to translate PubMed searches into EndNote smart groups (Appendix Table 2, available online). Publications on unsheltered homelessness were identified as the intersection of publications identified using keywords for homelessness and publications identified using

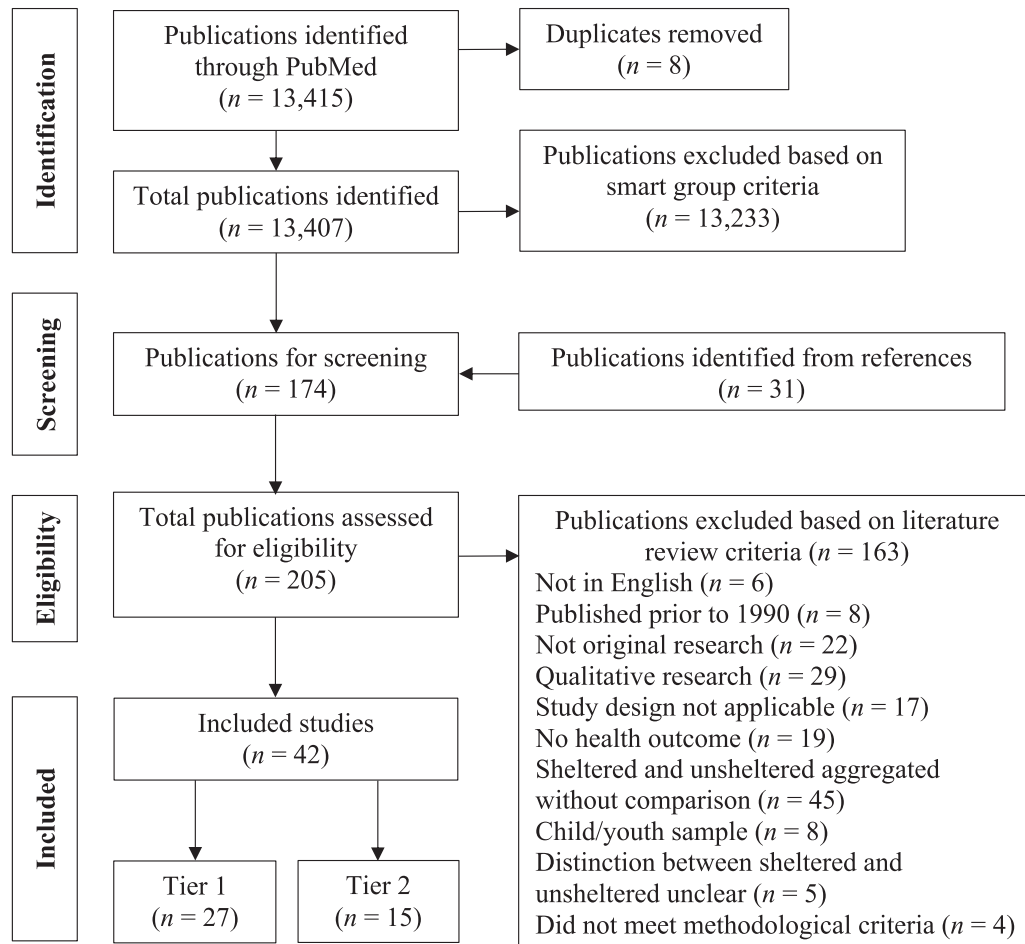


Figure 2. Summary of search strategy and study selection.

keywords for unshelteredness ([Appendix Table 2](#), available online). A total of 174 publications were identified for screening to identify studies in which a health or health utilization measure was the outcome of interest. To address the potential risk of publication bias, we conducted parallel searches of the gray literature using Google Scholar and found no additional studies.

Study Selection

The full text for all the 174 publications was located and read to determine eligibility for review. Reference lists were also searched to identify relevant publications and an additional 31 publications were screened for review. Following earlier studies, the review included only studies that estimated an association between unsheltered homelessness and a health-related outcome.²⁴ Studies that did not clearly meet the inclusion criteria were discussed with a second reviewer (RK) and any disagreements were resolved by consensus. For transparency, the list of 132 excluded studies is included in [Appendix Table 3](#) (available online), along with the criteria for exclusion.

Study Coding

Included studies were grouped into 2 tiers: (1) comparative studies of unsheltered and sheltered homelessness and (2) studies with an exclusively unsheltered sample. Tier 2 evidence was only reported if it contradicted Tier 1 evidence or if Tier 1 evidence did not exist for a health domain.

Owing to a wide range of methodologic rigor within the included studies, a scoring system was developed to evaluate study quality within each tier. Specifically, papers were scored on (1) the rigor of the sampling strategy, (2) the use of validated health measures, and (3) efforts to control for or otherwise account for (e.g., through standardization) the role of population composition. Initially, sampling rigor was coded using probability sampling of a known population. However, few studies met this requirement. Thus, the standard was relaxed to code studies on the basis of the following hierarchy: (1) probability sampling or quota sampling occurred at a mix of known venues, and/or efforts were taken to compare the resulting sample with more representative samples of the population of interest (e.g., point-in-time homeless counts); (2) convenience samples where the sample was not selected on the basis of health or health risk (i.e., certain neighborhoods of a city); and (3) convenience samples where the sample was selected on the basis of health risk (i.e., substance abuse program). Studies were independently scored by both reviewers (JR and RK), and discrepancies were resolved by consensus. Studies with a score of 1 were excluded from analysis. The inclusion criteria and scoring are listed in [Appendix Table 4](#) (available online). In all, 42 publications were selected for review (Tier 1: 27, Tier 2: 15).

EVIDENCE SYNTHESIS

The review includes 42 studies. Thirteen of them were Tier 1 comparative studies with quasi-representative sample design, 14 were Tier 1 comparative studies with convenience samples, and 15 were Tier 2 studies with unsheltered samples only ([Supplementary Electronic Appendix](#), available online). Results for Tier 1 studies are reported using adjusted (if available) odds/risk ratios for the

unsheltered versus sheltered comparison. For Tier 2 studies, we report unadjusted estimates for the unsheltered population.

[Figure 3](#) shows that more than half of the studies, including all Tier 1 representative studies, were conducted in the past decade. Nearly half of the studies (20 of 42) were published since 2016, including 10 of the 13 comparative quasi-representative studies. Nearly three quarters of the studies took place in the U.S. (29 of 42), including 85% of studies published in the past 5 years (17 of 20) and 85% of comparative quasi-representative studies (11 of 13).

We extracted 48 unique directional associations from the 27 Tier 1 comparative studies we reviewed ([Figure 4](#)). We summarized the type of relationship supported for each finding for all health outcomes. We classified results as those supporting substantially poorer health for unsheltered (statistically significant with $RR/OR \geq 2.0$), somewhat poorer health for unsheltered (significant with RR/OR between 1.0 and 2.0), and not statistically significant. No Tier 1 studies provided support for unsheltered individuals having better health than sheltered comparators. Across all the 48 Tier 1 findings, 44% (21 of 48) found that those who are unsheltered had much poorer health, 29% (14 of 48) supported moderately but significantly poorer health, and 27% (13 of 48) found no significant relationship. Within each of the 8 health outcome groups, most findings indicated significantly worse health for unsheltered than sheltered, although the number and quality of findings varied by outcome.

Mortality and Cause of Death

Mortality rates are significantly higher among those experiencing unsheltered homelessness. Compared with that of a sheltered homeless cohort, the standardized mortality ratio (SMR) for an unsheltered homeless cohort in Boston was nearly 3 ($SMR=2.7$; 95% $CI=2.3, 3.2$) times higher.²⁵ After grouping the unsheltered sample by mortality risk factors, the SMR for unsheltered versus that for sheltered was 4.0 (95% $CI=3.0, 5.2$) times higher for a high-risk group and 2.2 (95% $CI=1.8, 2.8$) times higher for the lower-risk cohort.²⁶ A national study using data from the 100,000 Homes campaign found a significant but much smaller effect of unsheltered status on the odds of mortality ($AOR=1.12$; 95% $CI=1.05, 1.19$).¹⁷

Three papers addressed the cause of death.^{25–27} Common causes of death among those who were unsheltered included chronic disease, substance use, and injuries.²⁵ Compared with nonpoisoning injuries among a sheltered cohort, nonpoisoning injuries (e.g., motor vehicle accidents, falls, drowning) were high ($SMR=7.1$; 95% $CI=4.4, 11.0$) and were associated with high rates of chronic substance

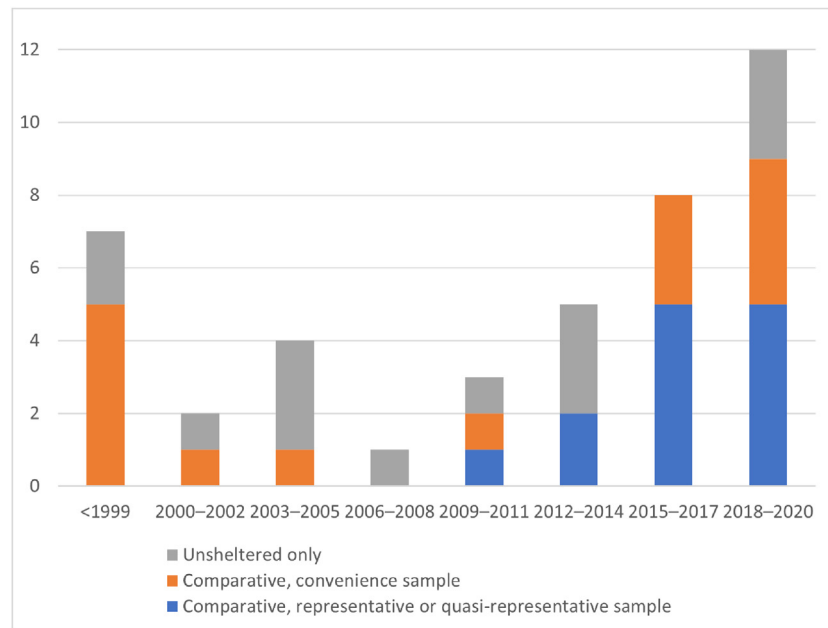


Figure 3. Included studies by year and quality.

use (SMR=4.2; 95% CI=2.5, 6.7).²⁵ Unsheltered adults classified as high risk had substantially higher mortality rates for HIV/AIDS (SMR=122.3; 95% CI=44.8, 271.1), chronic substance use (SMR=104.2; 95% CI=38.1, 231.0) primarily caused by alcohol abuse, chronic liver disease (SMR=86.0; 95% CI=45.0, 150.0), and injuries (SMR=44.0; 95% CI=17.8, 91.6) than a sheltered high-risk cohort.²⁶

Noncommunicable Diseases and Associated Markers

Unsheltered populations often experience poor adult health outcomes. A cross-sectional study of homeless women in Los Angeles found that after controlling for sociodemographic factors (e.g., age, education, ethnicity, number of times homeless, and length of time homeless),

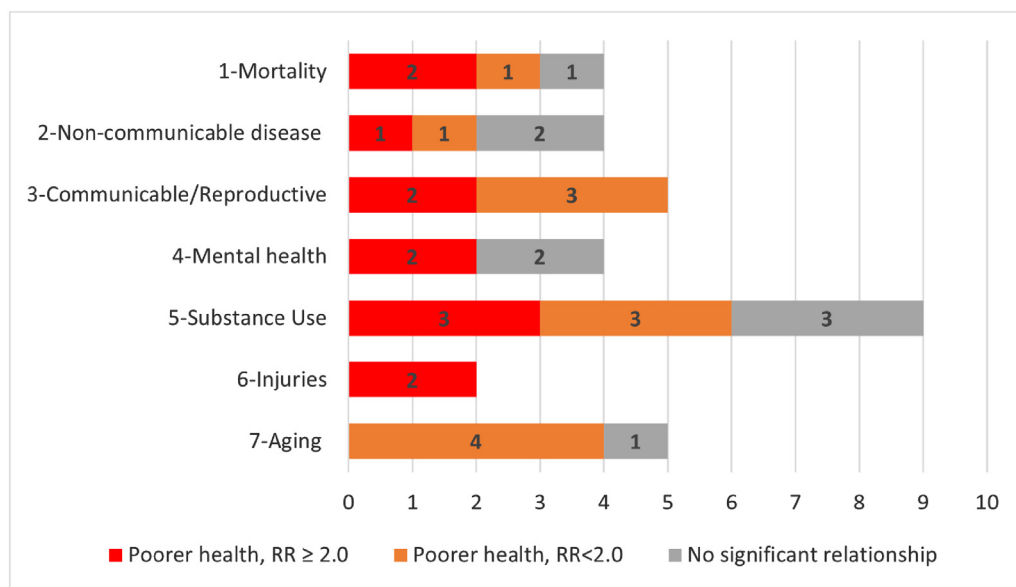


Figure 4. Classification of single associations for each health outcome by type of relationship support and outcome of interest.

unsheltered women had greater odds of fair or poor physical health (AOR=3.40; 95% CI=2.34, 4.94; $p=0.001$) and experiencing pain in the last 6 months (AOR=2.28; 95% CI=1.54, 3.37; $p=0.001$) than sheltered homeless women.²⁸ The association between unsheltered status and worse health status remained significant for women who used substances (AOR=3.0; 95% CI=2.02, 4.45) and women with poor mental health (AOR=2.24; 95% CI=1.49, 3.37).²⁸ Another study conducted in Wales found that oral health-related quality of life was significantly poorer among rough sleepers than among sheltered homeless adults ($p=0.004$).²⁹ Other common self-reported medical problems among the unsheltered include orthopedic problems and arthritis.³⁰

Evidence is mixed regarding the impact of shelter status and chronic homelessness on chronic health conditions.^{17,31,32} A study of chronically homeless veterans found that sheltered veterans were more likely to have a chronic health condition than unsheltered (43.4% vs. 40.8%; $p=0.001$), although this result was not controlled for confounders.¹⁹ Although a comparative study of chronically unsheltered and not chronically unsheltered adults did not find significant differences in the rates of serious medical conditions, chronically unsheltered adults were significantly more likely to report trimorbidity (e.g., serious medical issue, lifetime mental illness, lifetime substance abuse) than not chronically unsheltered adults (OR=1.65; 95% CI=1.11, 2.45).²⁰ A study of air pollution-related health outcomes among people experiencing homelessness found that breathing difficulty and headaches did not vary significantly on the basis of shelter status (shelter versus unsheltered) or chronicity (chronic versus nonchronic homelessness).³³

A number of studies focused on older homeless adults.^{19,20} One study found significantly higher rates of vision impairment among unsheltered older adults ($p=0.04$).²¹ However, *mobility impairment* (defined as self-reported difficulty in walking) and other geriatric conditions (activities of daily living impairment, instrumental activities of daily living impairment, one or more falls in the past 6 months, cognitive impairment, hearing impairment, urinary incontinence, or depression) did not vary significantly by living environment.²¹ Among unsheltered older adults, 34% reported falling once or more in the last 6 months,²¹ and spending any night unsheltered (compared with none) was significantly associated with increased odds of falling (AOR=1.42; 95% CI=1.10, 1.83).³⁴ Unsheltered older adults had more than twice the odds of very low food security than older adults who were recently homeless or staying in temporary accommodation or institution.³⁵

Communicable Disease

Just 4 papers addressed communicable diseases, with just 2 Tier 1 studies and 2 conducted in the U.S. One paper addressed unsheltered–sheltered differences in tuberculosis risk and treatment.³⁶ People living on the street had the greatest risk of tuberculosis compared with those housed and other homeless groups (sheltered and transient), and the average number of days hospitalized and required for follow-up care was 4 times as high as that of sheltered homeless.³⁶ Two descriptive studies conducted in Ethiopia observed that 44%–68% of street dwellers had 1 or more intestinal parasites.^{37,38}

Sexual and Reproductive Health

Although only 3 studies examined sexual and reproductive health, results suggest that some high-risk sexual behaviors and rates of sexually transmitted diseases may be more common, particularly for women. In the Los Angeles study, unsheltered women had greater odds of having multiple sex partners (AOR=2.79; 95% CI=1.93, 4.03; $p=0.001$) and having a sexually transmitted disease (AOR=2.10; 95% CI=1.05, 4.21; $p=0.036$) in the past 6 months.²⁸ They were also more likely to have experienced an unwanted pregnancy (AOR=1.53; 95% CI=1.07, 2.19; $p=0.021$).²⁸ Among unsheltered women experiencing reproductive health problems in India, most (78.5%) did not seek care.³⁹ A descriptive study of street dwellers in Ethiopia indicated that 39.4% had experienced sexually transmitted disease symptoms in the past year.⁴⁰

Mental Health

Unsheltered homelessness is often accompanied by high rates of mental health illness, including major depression. In the Los Angeles study, unsheltered women had much greater odds of being in poor mental health (AOR=12.69; 95% CI=6.68, 24.13; $p=0.001$) than sheltered homeless women.²⁸ A study of unsheltered adults in Japan found that street homelessness was significantly associated (OR=2.64; 95% CI=1.15, 6.06; $p<0.05$) with recent suicidal ideation after controlling for depression.¹² In addition, in a descriptive study of unsheltered adults in Ethiopia, 41.8% wished to die, 21.7% had persistent suicidal thoughts, and 14.8% had attempted suicide in the past month,¹⁴ but another study found that the rates of lifetime major depression did not vary significantly between unsheltered and sheltered men.⁴¹ A study of older homeless adults found that the rates of depression and suicidal thoughts did not vary significantly between unsheltered and those in other living groups, but the study did not include a clearly sheltered comparison group.²¹

In addition to major depression, schizophrenia and mood disorders are common mental health diagnoses among unsheltered populations. High prevalence rates have been found in descriptive studies across 3 countries. Most Brazilian unsheltered adults had a psychiatric diagnosis (98.8%); an Ethiopian study found that 41.0% had psychosis; and among a small sample of rough sleepers in Dublin, 31.3% had a severe mental illness.^{14,42,43} Among those with mental illness, the most common diagnoses were schizophrenia (88% in Ethiopia, 25% in Dublin, and 9.6% in Brazil) and mood disorders, including major depression (32.5% in Brazil).^{14,42,43}

Chronicity may contribute to the rates of mental illness among unsheltered persons. Exploratory analysis indicated that adults with psychosis in Ethiopia were more likely to be older and to have longer durations of street homelessness.¹⁴ Chronically unsheltered individuals were more likely to have *lifetime mental illness* (defined as either a history of psychiatric hospitalization or current mental health counseling or treatment) (OR=1.57; 95% CI=1.19, 2.08) than not chronically unsheltered persons.²⁰ In contrast, a recent study found mental health illness did not vary by shelter status (shelter versus unsheltered) or chronicity (chronic versus nonchronic homelessness).³³

Substance Use

Experiencing unsheltered homelessness can significantly increase the likelihood of substance use disorder and worsen existing substance use. In 1 study, unsheltered women were more likely to use alcohol or noninjection drugs in the past 6 months (AOR=2.95; 95% CI=1.94, 4.50) than their sheltered counterparts, but no significant differences were found regarding recent injection drug use.²⁸ Among opioid-using veterans in New York City, being unsheltered was a significant predictor (adjusted incidence rate ratio=2.08; 95% CI=1.39, 3.13) of greater engagement in opioid overdose risk behaviors after adjusting for demographics and prescription medications.⁴⁴ A study of sheltered and unsheltered tobacco users found few differences in tobacco use in the previous month, with the exception that unsheltered smokers were significantly more likely to report using large cigars (AOR=2.35; 95% CI=1.05, 5.23).⁴⁵ A study of young adults found that sheltered young adults were significantly less likely to have used alcohol (AOR=0.53; 95% CI=0.34, 0.82), marijuana (AOR=0.53; 95% CI=0.34, 0.83), and synthetic marijuana (AOR=0.46; 95% CI=0.25, 0.84) in the past month than unsheltered participants after controlling for other factors. The rates of stimulant and opioid use were also lower but were not statistically significant.⁴⁶

Among a cohort of out-of-treatment substance users, a composite HIV risk score (number of times injecting drugs, number of days using crack, and number of days having sex) was significantly higher for all unsheltered subgroups (Black males, Hispanic males, White males, Black females, Hispanic females) except for White females ($p<0.05$) than for sheltered participants.⁴⁷ Another national study of substance users found that unsheltered homelessness was strongly associated with frequent public drug use (AOR=17.44; 95% CI=9.5, 32.0) compared with stably housed participants after controlling for age and use of heroin or injection drugs.⁴⁸

Comorbid mental health and substance use disorder is also common among unsheltered populations.^{14,42,43} Chronically unsheltered adults were more likely to have a dual diagnosis of mental illness and substance use ($p=0.002$) than not chronically unsheltered adults.²⁰ In addition, veterans with a substance use disorder, alone or in combination with a mental illness, were significantly more likely to be unsheltered, although this did not apply to veterans with only a mental illness.¹⁹ The Los Angeles study found that unsheltered women with recent substance use had much greater odds (AOR=11.09; 95% CI=5.62, 21.88) of poor mental health than sheltered women with recent substance use.²⁸

The most used substance among unsheltered populations is alcohol.^{30,49,50} The rates of alcohol use were high, with 68% of rough sleepers in London⁴⁹ and 72% of encampment residents in Los Angeles³⁰ reporting using alcohol in the past month. Other commonly used drugs among the unsheltered include crack cocaine, heroin, and cannabis.^{30,49,50} Drugs are often used in combination among unsheltered individuals, using an average of 3 or 4 drugs.⁵⁰

There is evidence that substance use may increase with the duration of unsheltered homelessness. Among unsheltered adults in London, longer durations of unsheltered homelessness were accompanied by increased daily substance use, injection drug use, and dependency.⁵⁰ Substance use was a commonly reported cause of homelessness, and 80% reported using at least 1 additional drug since homelessness onset.⁴⁹

Injuries

Little evidence documents levels of injury risk for unsheltered and sheltered individuals. In the Los Angeles study, unsheltered women were more likely to have experienced victimization in the form of physical assault (AOR=2.74; 95% CI=1.91, 3.94; $p=0.001$) and robbery (AOR=5.37; 95% CI=3.64, 7.92; $p=0.001$) than sheltered women.²⁸ Although half of the unsheltered homeless adults in Manhattan reported a history of repeated trauma, the rates did not significantly vary

between chronically unsheltered and not chronically unsheltered homeless adults.²⁰

Health Services

Healthcare access and utilization. Unsheltered homelessness has been associated with lower rates of healthcare utilization. Not residing on the streets was significantly associated with recent health services utilization (AOR=11.39; 95% CI=3.58, 36.24) after adjusting for socioeconomic factors and other covariates in a study based in South Korea.⁵¹ After adjusting for sociodemographic and homelessness characteristics, women experiencing unsheltered homelessness were less likely to have seen a dentist in the past year (AOR=0.34; 95% CI=0.21, 0.53; $p=0.001$) and to have received a Pap test (AOR=0.40; 95% CI=0.28, 0.59; $p=0.001$) or a tuberculosis test (AOR=0.22; 95% CI=0.15, 0.33; $p=0.001$) than their sheltered counterparts.²⁸ After adjustment, unsheltered individuals in England were less likely to be registered with a general practitioner (AOR=0.45; 95% CI=0.30, 0.66) than sheltered participants but were not less likely to utilize primary care services.⁵² Unsheltered older adults had significantly lower rates of primary care services than older homeless adults in other residential categories.⁵³ Yet, regarding follow-up care, unsheltered clinic users were more likely (1.45 times) to return for care than those staying in a sheltered environment after controlling for other factors.⁵⁴

Findings for hospital-related health service use among unsheltered homeless individuals are mixed. Homeless veterans in Los Angeles with a history of sleeping unsheltered had lower odds of using inpatient services (OR=0.34; $p=0.002$) than sheltered veterans,⁵⁵ whereas a bivariate analysis found no difference in the use of outpatient services among homeless veterans on the basis of shelter status.¹⁹ Another study found higher rates of outpatient services among an unsheltered cohort but less use of emergency services and fewer hospital admissions than among sheltered adults.⁵⁶ One study found higher rates of health services utilization among the unsheltered, including emergency department and outpatient services, but this effect was primarily explained by high levels of chronic health conditions.⁵ A study of rough sleepers in England also found no association between shelter status and use of hospital care, hospital admissions, emergency services, or ambulance use after adjusting for covariates.⁵² Unsheltered populations are also less likely to have health insurance.¹⁹

Among current or past drug users, unsheltered women were less likely to have sought formal treatment in their lifetime than those sheltered (AOR=0.31; 95% CI=0.21, 0.47).²⁸ In an unadjusted analysis, unsheltered homeless persons were significantly more likely to report

not receiving needed substance use treatment than sheltered homeless persons (61.0% vs. 45.6%; $p<0.001$).⁵⁷

DISCUSSION

Despite the mixed quality of reviewed studies, our review suggests a consistent and strong association between unsheltered homelessness and higher levels of health risk, above and beyond the well-documented negative consequences of homelessness.² Unsheltered populations experience high rates of chronic disease, serious mental illness, and substance abuse compared with sheltered populations. Despite having many unmet health needs, unsheltered populations have lower healthcare utilization and often lack health insurance. These health disadvantages manifest in significantly higher burdens of mortality.²⁶ Unsheltered homelessness is strongly associated with chronic homelessness, which exacerbates serious mental illness and substance use, which are often co-occurring.

Limitations and Future Studies

We note a number of concerns surrounding methodologic quality. First, few studies addressed the critical outcomes of injuries, communicable diseases, and sexual and reproductive health. Second, we observed substantial variation in the definition of unshelteredness and of comparison groups, so comparisons between sheltered and unsheltered populations should be interpreted with care. A variety of measures have been used to determine shelter status. Unsheltered homelessness has been based on current living situation,⁵⁸ previous night location,⁴⁶ and having slept within a certain area.⁴⁰ Other studies incorporate duration data by gathering residential histories to identify where participants sleep most of the time. Residential time windows range from within the past 1 week,⁴⁵ 1 month,²⁸ 3 months,⁵⁷ and even 6 months.³¹ Finally, we note the variable quality of the sampling methods. Few studies used a probability sample. Only half of the comparative studies reviewed employed methods for gaining quasi-representativeness, either by sampling through multiple venues or comparing the sample to point-in-time estimates of target population composition. Some recent studies with consistently higher-quality evidence have produced more mixed results.

Future studies must employ longitudinal designs to address causal mechanisms linking unsheltered homelessness to health through specific pathways of risk. The potential for reverse causality underscores the need for longitudinal studies to explore temporal relationships. During the pandemic, many jurisdictions have targeted vulnerable individuals for placement in shelters or

hotels, potentially altering the temporal relationship between health and unshelteredness.^{59,60} Yet, at the same time, homeless services systems often impose rules or restrictions that cause vulnerable groups to avoid or be removed from shelters. This can include well-known restrictions such as sobriety requirements as well as more subtle barriers such as pet ownership restrictions that may exclude even those with service animals.⁶¹

An even more important need is to identify and address the specific social-ecologic exposures that drive poor health among the unsheltered and how these exposures interact with shelter status. Only 1 paper in this review attempted to isolate a causal factor in the relationships between health and sheltered/unsheltered homelessness.⁴¹ Notably, risk factors such as chronic exposure to low-quality food and sleep disruption because of light and noise pollution have not been addressed at all. Future studies should leverage longitudinal data where possible and disaggregate people experiencing homelessness by shelter status to further explore the mechanisms that drive poor health among unsheltered populations. A better understanding of these mechanisms would improve the ability to target street medicine and other street-based services toward impactful interventions.

We also note that homeless individuals with multiple marginalized identities (e.g., racial/ethnic, gender, and sexual minorities) may be at heightened risk of poor health.^{62,63} More research is needed to understand how social inequalities by race, gender, and sexuality interact to shape health outcomes among people experiencing homelessness, especially unsheltered homelessness. This will require samples of adequate size to conduct stratified analysis and more rigorous methods to ensure representation.

A number of interventions offer the potential to improve the welfare of unsheltered individuals while also engaging clients on a pathway to housing. Street medicine programs can deliver much-needed services and engage clients with service systems, although challenges remain, including identification of high-impact service packages, coordinating care across fragmented service providers, and ensuring sustainability.⁶⁴ Mobile phones are widely used among unsheltered individuals and can serve as a lifeline for emergency services and case worker outreach,^{65–67} but interventions are needed to improve access to connectivity and charging⁶⁸ and to develop equity-sensitive digital service delivery models.⁶⁹ Some interventions can increase the safety of unsheltered living arrangements, such as safe parking or camping areas.⁷⁰ Finally, evidence from Japan suggests that cash transfers delivered through basic income programs or benefit enrollment initiatives may hasten the

transition from the streets.⁷¹ Ultimately, however, any durable solution will require increased shelter inventory and a better understanding of the barriers to shelter entry.⁶¹

CONCLUSIONS

Unsheltered populations experience high rates of chronic disease, serious mental illness, and substance abuse than sheltered populations. Unsheltered homelessness is strongly associated with chronic homelessness that exacerbates serious mental illness and substance use, which are often co-occurring. The rates of premature mortality are high relative to sheltered populations, and older adults are particularly vulnerable owing to accelerated aging while on the street. Despite having high unmet health needs, unsheltered populations have lower healthcare utilization and often lack health insurance. Results are consistently positive for most health conditions, but the evidence quality is mixed. Future research should include longitudinal studies that account for the timing and duration of homelessness; explore specific causal mechanisms of impact; and address intersectionality with race, ethnicity, sex, gender, sexual orientation, and other marginalized identities. Although further research is desperately needed, our results also suggest an urgent need to address the unique and severe challenges facing unsheltered populations and the need for intervention approaches that are sensitive to these challenges.

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SUPPLEMENTARY MATERIALS

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EXHIBIT “B”

Sheltered Versus Nonsheltered Homeless Women

Differences in Health, Behavior, Victimization, and Utilization of Care

Adeline M. Nyamathi, RN, PhD, FAAN, Barbara Leake, PhD, Lillian Gelberg, MD, MSPH

OBJECTIVE: To contrast sociodemographic characteristics, physical and mental health status, substance use, sexual behaviors, victimization, and utilization of health services between homeless women residing in sheltered and nonsheltered environments.

DESIGN: Cross-sectional survey. A structured scale was used to measure mental health status. Physical health status, substance use, sexual behavior, history of adult victimization, and health services utilization were measured by content-specific items.

SETTING: Shelters ($N = 47$) and outdoor locations in Los Angeles.

PARTICIPANTS: One thousand fifty-one homeless women.

RESULTS: Homeless women living on the streets were more likely than sheltered women to be white and longer-term homeless. Controlling for sociodemographic characteristics, multiple logistic regression analyses revealed that unsheltered women had over 3 times greater odds of fair or poor physical health, and over 12 times greater odds of poor mental health than sheltered homeless women. They were also more likely than sheltered women to report using alcohol or noninjection drugs, to have multiple sexual partners, and to have a history of physical assault. About half of the overall sample reported utilization of a variety of health services; however, unsheltered homeless women were less likely to utilize all of the health services that were assessed, including drug treatment.

CONCLUSIONS: There is a critical need for aggressive outreach programs that provide mental health services and substance abuse treatment for homeless women on the streets. Comprehensive services that also include medical care, family planning, violence prevention, and behavioral risk reduction may be particularly valuable for homeless women, especially those living in unsheltered environments.

KEY WORDS: homeless women; shelter status; health service utilization.

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Homeless women represent a rapidly growing population at risk for poor health outcomes.^{1,2} However, they are not a homogeneous group and relatively little is known about differences in the health status, victimization profiles, and health services utilization of homeless women who reside in emergency or sober living shelters as compared with those who live in alternative, unsheltered places, such as the streets. A reasonable assumption is that homeless women living on the street do not have organized living arrangements and close contact with other people, and consequently, they may be more emotionally distressed, more likely to engage in risky behaviors, more likely to experience poor health and victimization, and less likely to use health services than homeless women who reside in shelters. Thus, in addition to homeless status, clinicians may need to take living arrangements into account when prescribing treatment for homeless women.

The literature has shown that, in comparison with the general population, homeless persons have higher rates of physical morbidity.^{3,4} Moreover, despite being sicker, homeless persons are also known to be less likely to use outpatient health services than those in the general population.⁵ However, relatively little is known about the physical health or health service utilization of homeless individuals living in different environments.

One study that did assess the physical health status and substance use of homeless adults as a function of sampling site found startling differences.⁶ For example, shelter residents compared with homeless persons sampled elsewhere were less likely to suffer skin problems, to have elevated liver enzymes, to have been victimized, and to have used illegal drugs. Interestingly, while no site differences were found in many of the reported symptoms, the outdoor homeless were more likely to have medical problems because of exposure to the elements, poor hygiene, malnourishment, and drug use. However, this study did not examine mental health, sexual risk behaviors, and health care utilization for these subgroups of homeless adults, the sample was predominantly male, and it was not clear whether or not individuals actually lived where they were sampled.

Health services utilization has only recently become an area of targeted focus among the homeless who suffer with a number of physical and mental health problems.^{3,7} While authors of a recent study reported that only one third of homeless adults obtained tuberculosis skin tests, sexually transmitted disease (STD) screening, and Pap tests,⁸ these authors also found that providing health care in a model program designed to address the special

Received from the University of California, Los Angeles School of Nursing, Los Angeles, Calif (AMN, BL, LG).

Address correspondence and reprint requests to Dr. Nyamathi: Professor, University of California, Los Angeles, School of Nursing, Room 2-250, Factor Building, Box 951702, Los Angeles, CA 90095-1702.

needs of the homeless did result in homeless persons returning for follow-up visits as often as a low-income, domiciled group. Thus, a continuing investigation of the homeless, and of the varying needs of different subgroups, is critical to ensure appropriate utilization of health systems.

As part of an effort to identify subgroups of homeless persons with different levels of health service needs, this paper describes similarities and differences in sociodemographic characteristics, physical and mental health status, substance use, sexual behaviors, victimization, and utilization of health care services between homeless women residing primarily in shelters during the previous month and those who did not reside in a sheltered environment, but were found in close enough proximity to shelters that they might be willing and able to avail themselves of outreach programs targeted to their needs.

METHODS

Subjects and Setting

The study was part of a larger study examining initiation and continuation of substance use that used a purposive sample of 1,325 homeless women who resided in 1 of 47 traditional or sober living shelters or who were sampled through street outreach in Los Angeles.⁹ The sampling plan, as specified by the granting agency, was designed to recruit 64% of women as current substance users (defined as drug and/or alcohol use within the preceding 90 days), while 36% would be past or never users. Women were considered eligible if they were aged 18 or over, and homeless. A homeless woman was defined as one who had spent the previous night in a shelter, hotel, motel, or home of a relative or friend, and was uncertain as to her residence in the next 60 days or stated that she did not have a home or house of her own in which to reside.¹⁰ Data were collected between 1994 and 1996.

Among the original sample, 1,051 women had complete residential history information indicating primary residence in shelters or on the streets. Women with primary residence in shelters were defined as those who reported usually living in an emergency shelter or sober living shelter/residential treatment program during the past 30 nights and had spent at least half of that time in these facilities. Women with primary residence on the streets were defined as those who reported usually living on the streets during the past month and had spent at least 15 of the past 30 nights there. Women who did not fit into either of these categories were excluded from this report. These excluded women did not differ from those who were included in terms of age, length of time homeless, or number of homeless episodes. However, the excluded women were somewhat better educated (12 years vs 11 years), less likely to be Latina (15% vs 34%), and more likely to be African American (60% vs 45%) ($P < .001$). The 2 groups of women also resembled each other on all the

study outcomes, with the exception of injection drug use and sexual assault. In particular, women who were excluded were less likely to be injection drug users than their study peers (9% vs 15%) and more likely to report sexual assault (37% vs 29%) ($P < .01$).

Procedures

Initial contacts in homeless shelters were made to site directors. Homeless women residing within the participating shelters or who were obtained through street outreach were then recruited through presentations provided by research staff to groups of women or on a one-on-one basis. All women interested in participating in the study notified the project nurses and outreach workers. Those who met the inclusion criteria were informed of the study and required to read and sign an informed consent. Only 4% of women who met the eligibility criteria declined to participate.

For sheltered women, appointments were made for instrument administration to take place in a room set aside by the director of the shelter. Outreach interviews were conducted in a variety of places considered convenient by the subjects. These places included restaurants, outdoor areas, cars, parking lots, and drop-in shelters. A trained nurse or outreach worker of the subject's ethnicity administered a face-to-face, structured interview that took approximately 60 minutes to complete. Women received \$10 for their time.

Measures

Sociodemographic characteristics obtained using the structured interview included ethnicity, age, education, usual living place, length of time homeless, number of times homeless, and number of nights during the past 30 spent in various living arrangements (shelters, streets, friends' homes, etc.).

Substance use was assessed by the slightly revised Drug History Form.¹¹ Revisions reflected reordering of frequency of use questions. Drugs on the form included alcohol, marijuana, hallucinogens, crack/freebase, other cocaine, heroin, and street methadone. Items included lifetime use and frequency of use in the past 30 days, in the past 6 months, and in the past 12 months. Favorable results regarding the reliability and validity of data collected in this format have been reported by others.^{12,13}

Health status was measured by 2 individual items inquiring about the women's physical health and the 5-item Mental Health Index (MHI-5).¹⁴ Respondents were asked to rate their general health on a scale of 1 (excellent) to 5 (poor) and their bodily pain on a scale of 1 (none) to 6 (very severe). The first item has been used in a number of health surveys as a valid overall indicator of physical health.¹⁵ Both items were used as part of the health assessment in the RAND Medical Outcomes Study.¹⁶ The 5 items comprising the MHI-5 all have identical response

sets on a 6-point scale ranging from "all of the time" to "none of the time." The MHI-5 has well-established reliability and validity, and has been shown to detect significant psychological disorders including major depression, general affective disorders, and anxiety disorders.¹⁷ Cronbach's α in this sample was 0.82. Mean item scale scores were computed and linearly transformed to a 0 to 100 range in order to evaluate them in terms of an established clinical cut point. Higher scores indicate greater psychological well-being.

Sexual behavior was measured by 3 items. Women were asked how many sexual partners they had in the past 6 months and whether they had any unwanted pregnancies in their lifetime. They were also asked whether they had been told they had a "sexual disease" in the past 6 months.

History of adult victimization was assessed by 3 items using a yes/no response format that asked women if, since they started living on their own, they had been physically assaulted or attacked, not including sexual assault; sexually assaulted; or robbed (i.e., something belonging to them was taken from them personally against their will).

Health services utilization was measured by items inquiring about both preventive health services such as Pap, tuberculosis (TB), and HIV testing, as well as necessary or discretionary health services, which included talking with a doctor or other health professional at any time from the past 2 weeks (1) to never (7), seeing a dentist at any time from the past 12 months (1) to 5 or more years ago (4), and having ever participated in a drug treatment program.

Analysis

Sheltered and unsheltered homeless women were contrasted on the categorical study variables by χ^2 tests and on continuous variables by t tests. For analytic purposes, the MHI-5 score was dichotomized at 66 when it was used as an outcome. Individuals may be at high risk for mental health problems if they score less than 66 out of 100.¹⁸ Multiple logistic regression analysis was used to assess the impact of shelter status on physical and mental health, substance use, sexual behaviors, victimization, and health service utilization, controlling for possible confounding effects of sociodemographic characteristics. The logistic regressions were also rerun with women who reported living primarily in sober living shelters or residential treatment programs removed to examine possible effects of this important subcategory of women who had undergone some rehabilitation and were presumably more functional. Further, injection and noninjection substance use and the continuous MHI-5 score were added as predictors to the original logistic models for physical health, sexual behaviors, victimization, and health services utilization to determine whether substance use and mental health had a major impact on shelter status effects.

Finally, the logistic regressions were rerun separately for 2 groups of women: those who reported recent substance use and those whose MHI-5 scores suggested poor mental health. The small numbers of unsheltered women who did not report recent substance use and who had MHI-5 scores of 66 or greater did not permit separate analyses for nonsubstance-using women or for those with relatively good mental health. To partially compensate for the large number of comparisons, the significance level for all tests was set to .01.

RESULTS

The sample consisted of 472 African Americans, 207 Caucasians, 362 Latinas, and 10 women of other ethnicities. Almost 82% of the women reported their usual place of residence to be sheltered; 16% of this subgroup resided in sober living shelters or residential drug treatment programs. On average, the women were about 33 years of age and had less than a high school education (Table 1). Women living in unsheltered environments were somewhat younger than their sheltered counterparts, and they were more likely to be white and to have been homeless for a year or more.

As shown in Table 2, 38% of the sample reported fair or poor health, and those living in unsheltered environments were especially affected. Women living on the streets were also more likely to report some degree of pain. Over half of the sample was at risk for poor mental health, which characterized almost all of the street women.

Homeless women living on the streets were also more likely than their sheltered peers to report use of noninjection drugs or alcohol, and having multiple sexual partners, a recent STD, unwanted pregnancies, and a history of victimization. However, while large differences in rates of physical assault and robbery were found between the 2 groups of women, the difference in sexual assault rates was not significant.

Almost all of the women reported seeing a health care professional in the past year and about 60% said they had a Pap or TB test. Women living on the streets were less likely to report these two tests, but no difference was found in HIV testing rates. However, sheltered women were far more likely to have seen a dentist in the past year. Among current or past drug users, sheltered women were also more likely to have sought formal treatment.

Table 3 shows the results of multiple logistic regression analyses on our health and utilization outcomes to examine the effect of shelter status when the sociodemographic characteristics listed in Table 1 were controlled. As compared to sheltered women, those living primarily on the streets had over 3 times greater odds of fair or poor physical health and over 12 times greater odds of poor mental health. They were also more likely to experience pain, to report alcohol or noninjection drug use, to have multiple sexual partners, and to have been physically assaulted or robbed. In contrast, unsheltered women were

Table 1. Sociodemographic Characteristics of Sheltered Versus Nonsheltered Homeless Women

Characteristics	Sheltered* Homeless (n = 860)	Nonsheltered† Homeless (n = 191)	Total (N = 1,051)	P value‡
Mean age, y (SD)	33.1 (8.8)	31.0 (9.1)	32.7 (8.9)	.003
Mean education, y (SD)	11.0 (2.6)	10.9 (2.6)	10.9 (2.6)	.772
Race, %				
African American	47.4	33.5	44.9	.001
White	13.8	46.1	19.7	
Latina	37.9	18.9	34.4	
Other	0.8	1.6	1.0	
Homeless for the first time, %	42.6	36.7	41.5	.132
Homeless for at least 1 year, %	43.6	73.8	49.4	.001

*Sheltered homeless women are those who report usually living in a homeless or sober living shelter and have spent less than half of the previous 30 nights on the street.

†Nonsheltered homeless women are those who report usually living on the street and have spent at least 15 of the past 30 nights there.

‡P values for comparisons between sheltered and nonsheltered homeless women.

less likely than their sheltered counterparts to report utilization of any health service. No significant differences were found with respect to injection drug use, recent STDs, unwanted pregnancies, or sexual assault.

Eliminating women who resided in sober living shelters or residential treatment programs from the models produced relatively minor differences. When mental health and substance use were controlled, the adjusted association

Table 2. Comparison of Patient Characteristics as a Function of Residential History

Characteristic	Sheltered* Homeless, % (n = 860)	Nonsheltered† Homeless, % (n = 191)	Total, % (N = 1,051)	P value‡
Health status				
Fair/poor physical health	33.0	59.5	37.8	.001
Some pain in past 6 months	57.0	73.8	60.0	.001
Poor mental health	48.0	93.2	56.2	.001
Substance use				
Injection drug use in past 6 months	14.5	18.2	15.2	.187
Alcohol or noninjection drug use in past 6 months	56.2	79.6	60.5	.001
Sexual activity and pregnancy				
Multiple sex partners in past 6 months	29.4	56.3	34.3	.001
Sexually transmitted disease in past 6 months	3.3	11.5	4.8	.001
Any unwanted pregnancies	34.5	48.7	37.1	.001
Adult victimization				
Physically assaulted	27.9	56.8	33.2	.001
Robbed	28.0	72.8	36.2	.001
Sexually assaulted	27.1	35.5	28.6	.021
Access to services				
Talked with health care professional in past year	89.8	83.4	88.7	.013
Saw dentist in past year	41.0	14.7	36.2	.001
Pap test in past year	68.2	48.6	64.7	.001
TB test in past year	65.3	34.8	59.8	.001
HIV test in past 6 months	47.1	42.4	46.2	.242
Drug treatment program (lifetime)§	47.7	28.3	43.8	.001

*Sheltered homeless women are those who report usually living in a homeless or sober living shelter and have spent less than half of the previous 30 nights on the street.

†Nonsheltered homeless women are those who report usually living on the street and have spent at least 15 of the past 30 nights there.

‡P values for comparisons between sheltered and nonsheltered homeless women.

§Among 931 women with a history of drug use.

Table 3. Comparison of Adjusted Odds Ratio* for Homeless Women in Unsheltered Versus Sheltered Environments† (N = 956)

Outcome	Adjusted Odds Ratio	95% Confidence Interval	P value
Health status			
Fair/poor health	3.40	(2.34 to 4.94)	.001
Some pain in past 6 months	2.28	(1.54 to 3.37)	.001
Poor mental health	12.69	(6.68 to 24.13)	.001
Substance use			
Injection drug use in past 6 months	1.14	(0.69 to 1.88)	.618
Alcohol or noninjection drug use in past 6 months	2.95	(1.94 to 4.50)	.001
Sexual activity and pregnancy			
Multiple sex partners in past 6 months	2.79	(1.93 to 4.03)	.001
Sexually transmitted disease in past 6 months	2.10	(1.05 to 4.21)	.036
Any unwanted pregnancies	1.53	(1.07 to 2.19)	.021
Adult victimization			
Physically assaulted	2.74	(1.91 to 3.94)	.001
Robbed	5.37	(3.64 to 7.92)	.001
Sexually assaulted	1.08	(0.74 to 1.59)	.687
Utilization of services			
Talked with health care professional in past year	0.44	(0.26 to 0.75)	.002
Saw dentist in past year	0.34	(0.21 to 0.53)	.001
Pap test in past year	0.40	(0.28 to 0.59)	.001
TB test in past year	0.22	(0.15 to 0.33)	.001
HIV test in past 6 months	0.58	(0.40 to 0.84)	.004
Drug treatment program (lifetime)‡	0.31	(0.21 to 0.47)	.001

*Adjusted for the linear effects of age, education, ethnicity, number of times homeless, and length of time homeless.

†Sample sizes range from 845 to 957, depending on missing values.

‡For 845 women with a history of drug use.

between fair/poor health and shelter status became weaker (odds ratio [OR], 1.99; 95% confidence interval [CI], 1.33 to 2.98), as did that for pain (OR, 1.78; 95% CI, 1.17 to 2.70). Similarly, the sexual activity and victimization measures were not as strongly related to shelter status. However, the health services utilization results were almost identical.

Table 4 shows logistic regression results for 2 subgroups of women: those who reported substance use in the past 6 months and those who were at risk for poor mental health. Although the associations between shelter status and fair or poor health were weaker than in the overall sample, unsheltered women still had over twice the odds of poor physical health outcomes as sheltered women. Further, among women at risk for poor mental health, those lacking shelter were still more likely to use noninjection drugs and alcohol, and among substance-using women, the unsheltered group was still at far greater risk for poor mental health.

Turning to sexual activity and pregnancy, having multiple sexual partners was significantly associated with shelter status in both subsamples, and the odds ratios were similar to that in the overall sample. Similarly, shelter status findings in the 2 subsamples with respect to victimization and health services utilization generally mirrored those in the total sample. In particular, among substance-using women and those at risk for poor mental health, those living in unsheltered environments were

more likely than their sheltered counterparts to have experienced nonsexual victimization and they were less likely to use most health services.

DISCUSSION

This study confirms previous research findings that homeless adults are at risk for poor physical health, and unsheltered homeless persons have poorer physical health status and use less medical care than their sheltered counterparts.^{6,19} The worst health was reported by women living on the streets. Almost three fourths of the unsheltered homeless women reported being in some degree of pain, and 60% reported fair or poor health. The latter figure contrasts with a rate of 38% for the sample as a whole and a 36% rate of fair/poor health found in a representative sample of homeless adults in Los Angeles.¹⁹ By way of comparison, only 10% of the general population report fair or poor health.²⁰

While homeless populations are known to have relatively high rates of serious mental illness,^{21,22} the fact that virtually all of the unsheltered homeless women were at risk for poor mental health is still remarkable. Even among substance users, unsheltered homeless women still had 11 times greater odds of poor mental health than sheltered homeless women, controlling for covariates. Thus, it would appear that the streets are becoming a congregating place

Table 4. Comparison of Adjusted Odds Ratio* for Homeless Women in Unsheltered Versus Sheltered Environments for Key Subgroups of Women

Outcome	Substance-Using Women [†] (n = 713) [§]		Women with Poor Mental Health [‡] (n = 548)	
	Adjusted Odds Ratio (95% Confidence Interval)	P Value	Adjusted Odds Ratio (95% Confidence Interval)	P Value
Health status				
Fair/poor health	3.00 (2.02 to 4.45)	.001	2.24 (1.49 to 3.37)	.001
Some pain in past 6 months	2.33 (1.54 to 3.53)	.001	2.14 (1.38 to 3.33)	.001
Poor mental health	11.09 (5.62 to 21.88)	.001	—	
Substance use				
Injection drug use in past 6 months	—		1.28 (0.74 to 2.22)	.382
Alcohol or noninjection drug use in past 6 months	—		2.21 (1.39 to 3.52)	.001
Sexual activity and pregnancy				
Multiple sex partners in past 6 months	2.37 (1.61 to 3.49)	.001	2.56 (1.69 to 3.86)	.001
Sexually transmitted disease in past 6 months	1.76 (0.86 to 3.59)	.124	1.95 (0.90 to 4.24)	.091
Any unwanted pregnancies	1.31 (0.90 to 1.91)	.162	1.38 (0.93 to 2.05)	.113
Adult victimization				
Physically assaulted	2.40 (1.64 to 3.51)	.001	2.61 (1.75 to 3.88)	.001
Robbed	4.97 (3.31 to 7.48)	.001	5.10 (3.33 to 7.80)	.001
Sexually assaulted	.097 (0.65 to 1.46)	.894	1.07 (0.70 to 1.64)	.744
Utilization of services				
Talked with health care professional in past year	0.52 (0.30 to 0.91)	.021	0.47 (0.25 to 0.89)	.020
Saw dentist in past year	0.41 (0.25 to 0.65)	.001	0.35 (0.21 to 0.56)	.001
Pap test in past year	0.38 (0.26 to 0.57)	.001	0.45 (0.30 to 0.69)	.001
TB test in past year	0.22 (0.14 to 0.33)	.001	0.25 (0.16 to 0.38)	.001
HIV test in past 6 months	0.58 (0.39 to 0.86)	.007	0.59 (0.40 to 0.90)	.013
Drug treatment program (lifetime)	0.033 (0.21 to 0.50)	.001	0.36 (0.23 to 0.56)	.001

*Adjusted for the linear effects of age, education, ethnicity, number of times homeless, and length of time homeless.

[†]Women who reported use of injection or noninjection drugs or alcohol within the past 6 months.

[‡]Women with MHI-5 scores <66.

[§]Sample sizes range from 704 to 713, depending on missing values.

^{||}Sample sizes range from 511 to 548, depending on missing values.

for persons with poor mental health. Women living on the streets also had higher rates of noninjection drug and alcohol use; however, we do not know if substance-using women lived outdoors because they had been refused entrance to or evicted from shelters due to their active substance use.

As in previous studies of homeless women,^{23,24} many participants in this study engaged in risky sexual activity. About one third of the sample, and half of the unsheltered women, reported multiple sexual partners and an unwanted pregnancy at some point in their lives. Although high, the rate of unwanted pregnancy in the sample is

less than the 50% rate in the general population.²⁵ This discrepancy may be due to the fact that homeless women frequently lack an adult network for social support and view their children as a primary source of support.²⁶ Both sheltered and unsheltered homeless women had relatively high rates of sexually transmitted diseases in the past 6 months, with those in the unsheltered group more than 3 times as likely to report them. When covariates were controlled, the impact of shelter status on unwanted pregnancies and STDs was markedly reduced. Nonetheless, even among substance-using women and women with poor mental health, those living on the street still had over one-and-a-half times the odds of having a recent STD as those living in shelters. This finding may reflect a greater need to engage in survival sex or sex for drugs, or it may just be a consequence of having more sexual partners. In any case, unsheltered women clearly need outreach programs that target risky sexual behaviors.

Victimization was reported by close to a third of women in the sample. This finding is in accord with other research indicating that victimization is frequently experienced by homeless women, because of the lack of protection on the street and because many of them engage in street activities such as panhandling, dealing drugs, and prostitution in order to survive.²⁷ Rates of robbery and physical abuse were particularly high among women living on the street. Even after restricting analyses to substance-using women and those at risk for poor mental health, and controlling for sociodemographic disparities between women living in sheltered and unsheltered environments, street residence was a strong independent predictor of robbery and physical assault. Interestingly, reported rates of sexual assault did not differ between sheltered and unsheltered women. Since we do not know when the women were sexually assaulted or their living situation at the time, it is difficult to explain this finding.

The good news from this study is that the vast majority of sheltered homeless women were able to obtain at least some needed medical care and receipt of preventive care was common. In fact, about two thirds of the sheltered homeless reported that they had received Pap and TB testing in the past year, and almost half said they had been tested for HIV in the past 6 months. Even among the unsheltered group, one third to one half reported these preventive care measures. Seeing a dentist in the past year was reported less frequently, especially by unsheltered women, as was lifetime treatment for drug abuse (among women whose histories suggested a need for this service). Regardless of varying levels, a common thread among all of the health services measures examined here is that unsheltered homeless women were less likely than their sheltered counterparts to use them. This failure to utilize health care with comparable frequency is particularly striking in view of the fact that women living on the street had greater need for care and they were more likely to be longer term homeless and thus perhaps more knowledgeable about the homeless health care system.¹⁹

Further, although psychological distress has been shown to be associated with greater barriers to obtaining medical care,²⁸ and substance use has been found to be associated with failure to seek health care,²⁹ the relatively low use of health care services by unsheltered homeless women found in this study cannot be explained by either poorer mental health or greater substance use. One positive note is that the 2 groups of women differed less on HIV testing than on other health services utilization measures. This finding supports the effectiveness of community outreach efforts to detect HIV infection. It also suggests the need for similar efforts directed to other health service areas. While homeless women can obtain medical care in outpatient departments, community clinics, and some clinics associated with homeless shelters, those who reside primarily on the streets do not have access to the drop-in services offered to some shelter residents by visiting health care providers or to the case management many shelters provide. Further, they are not eligible to participate in the substance abuse counseling and treatment programs that shelters may provide for their own residents. A somewhat unexpected finding was that homeless women living in sober living and residential treatment shelters did not fare substantially better than those living in emergency shelters. However, we did not assess how long women had resided in the shelters or length of time in drug recovery. Further, sober living/residential treatment shelters may not emphasize other forms of health promotion, and victimization may have occurred prior to entry.

The cross-sectional design of this study limits inferences about cause-and-effect relationships between shelter status and the outcomes examined here. The exclusive use of self-report data is also a limitation, although self-reports are the only practical way to obtain much of the information reported. In addition, this study was conducted in Los Angeles and the participants were part of a directed sample, so the findings may not be generalizable to all homeless women in Los Angeles or to those in other cities. The use of specific services, such as TB and HIV testing, and dental and drug abuse treatment, as a proxy for overall health services utilization is also a limitation. Further, we did not inquire about important sexual risk behaviors, such as trading sex for food, drugs, shelter, or protection, and our measure of mental health is not a diagnostic tool and thus may exaggerate the seriousness of the mental health problems reported here. It should also be noted that the unsheltered women in this study were found near shelters and may have been better off than most women living on the street.

CONCLUSIONS

Homeless women, especially those found on the streets, have major health problems in all domains—physical, mental, violence, and drug and alcohol use. Yet virtually all of these women have had contact with the health system. This contact clearly needs to be strengthened and

expanded among homeless women on the streets who have poor health and limited health care access and clinicians need to use patient visits as opportunities to screen for shelter status and shelter-related health problems, to educate patients about other needed services, and to attempt to make appropriate follow-up plans for treatment and evaluation.

Homeless women are clearly willing to use available health services, including preventive services for conditions for which they are not currently experiencing symptoms. However, aggressive outreach programs that address mental health and substance use problems are needed for homeless women living on the streets. Ideally, these programs should include comprehensive services such as family planning, violence prevention, and STD risk reduction. In some cases, incentives may be needed to encourage women to avail themselves of future-oriented care if they feel overwhelmed by just obtaining the daily necessities of life. This is particularly likely to be the case for women living in unsheltered environments.

The high levels of access to many health services found among sheltered homeless women suggest that existing shelter resources may be an important link for outreach programs attempting to improve health care for unsheltered homeless persons. Further, as health care for the homeless is being increasingly transferred to managed care systems, the agencies involved may need to establish cooperative arrangements with neighborhood shelters to assure that their homeless enrollees have adequate access to health care providers who understand their special needs, as well as services they are willing and able to use. The beliefs and attitudes of health care providers toward homeless persons merit investigation as well.

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TAB 19

Court File No. CV-25-00000750-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

THE REGIONAL MUNICIPALITY OF WATERLOO

Applicant

and

PERSONS UNKNOWN AND TO BE ASCERTAINED

Respondents

APPLICATION UNDER Rule 14.05 of the *Rules of Civil Procedure*

This is the Cross-Examination of **Marie Josee Houle** on her affidavit dated August 15, 2025, taken via Zoom videoconference on consent of the parties on January 7, 2026.

APPEARANCES:

GORDON CAPERN, Mr.	Counsel for the Applicant
GRETA HOAKEN, Ms.	
JOANNA MULLEN, Ms.	Counsel for the Respondents
ASHLEY SCHUITEMA, Ms.	
CHARLOTTE CAHILL, Ms.	Student-at-Law
MERCEDES PEREZ, Ms.	Amicus Curiae

(i)

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M. J. Houle (Cr.-Ex.) - 3

1 JANUARY 7, 2026

2
3 MARIE JOSEE HOULE, AFFIRMED

4 CROSS-EXAMINATION BY MR. CAPERN:

5 1. Q. And just a couple rules of engagement
6 for both of us, Ms. Houle, as we go through the what I
7 think will probably take an hour this afternoon, it's
8 that it's very important for our reporter, Ms.
9 Pollard, that you and I don't speak over each other.
10 And so as a courtesy to her and to make sure that the
11 record stays clean, it would be useful if you can just
12 wait until I finish my questions before you answer
13 them. And, conversely, I will do my best to make sure
14 I don't interrupt the answers that you're giving and
15 that I don't speak over you as well. If that's okay?

16 A. Thank you, yes.

17 2. Q. And the other thing is that you won't
18 be surprised to learn that even the best of the
19 lawyers in the room will mumble our words periodically
20 and ask questions that don't make any sense. And
21 that's not because we're trying to be devious, it's
22 because we made a mistake. And so if I ask you a
23 question that doesn't make any sense to you, please
24 just tell me that it doesn't make any sense to you.
25 And I'll see if I can say it in a way that's better.

M. J. Houle (Cr.-Ex.) - 4

1 A. Okay, thank you.

2 3. Q. Thank you very much. I'd like to
3 start, if I can, Ms. Houle, with your CV which I think
4 was appended to as Exhibit A to your affidavit. Do
5 you recall that?

6 A. Yes, yeah.

7 4. Q. Thank you. And just to orient you on
8 things. On your screen, Greta is going to be putting
9 up the documents that I am referring to as we go. And
10 if you need her to move the document around or you
11 want to see another document as part of your -- in the
12 course of answering the questions, just let us know
13 and we'll accommodate that. Okay?

14 A. Thank you. I also have written copies.
15 I made printed -- printed copies of all of the
16 documents ---

17 5. Q. That's great.

18 A. --- that was submitted.

19 6. Q. Thank you.

20 A. Yeah.

21 7. Q. Okay. Then this is purely -- the stuff
22 that's on screen may be purely for my benefit then
23 because I don't have printed copies of this out in
24 front of me. And just while we're on that topic, Ms.
25 Houle, do you have anything in front of you other than

M. J. Houle (Cr.-Ex.) - 5

1 the copy of your affidavit and the exhibits to it?

2 A. No, no. I was told that I should not
3 and therefore, I don't.

4 8. Q. Okay. Thank you.

5 A. I closed everything on my computer as
6 well, including Outlook and Teams so that I am just
7 purely focused on this.

8 9. Q. Okay, thank you very much and, yeah,
9 it's obviously preferable that you not be taking notes
10 or making notes or receiving any communications from
11 anybody in the course of the examination. Do you
12 understand that?

13 A. Yes.

14 10. Q. Thank you. And so when I go to your
15 CV, I think we can spin down to your employment
16 history which is a little bit further down in the
17 document here.

18 I see that your current position is that of
19 the Federal Housing Advocate, is that correct?

20 A. Yes.

21 11. Q. And that's a role that you've filled
22 since February of 2022?

23 A. That's right.

24 12. Q. And prior to that, you were the
25 executive director of an organization called "Action

M. J. Houle (Cr.-Ex.) - 6

1 Logement," is that correct?

2 A. That's right.

3 13. Q. And that was a position that you held
4 from 2017 to 2022?

5 A. Yes. Yeah.

6 14. Q. And you'll forgive me for not having an
7 exhaustive knowledge but what is Action Logement?

8 A. Action Logement is a housing loss
9 prevention organization. It is a francophone
10 organization in Ottawa but the organization provided
11 paralegal services as well as social -- social work
12 services to help people either stay housed or to find
13 better housing.

14 My role as executive director was to ensure
15 the well-functioning of the organization and answer to
16 a board of directors and to ensure that the paralegals
17 and the social workers had the resources that they
18 needed in order to do their work.

19 This was a job that had me cross the floor
20 because before that, I was a landlord in the non-
21 profit and co-op sector. So Action Logement also did
22 a lot of -- it provided me as a professional in this
23 field kind of an opportunity to learn more about the
24 bird's eye view of the total housing system, and not
25 just from the housing providers perspective.

M. J. Houle (Cr.-Ex.) - 7

1 And learned a lot about housing and
2 homelessness on the ground as well as bylaws and
3 legislation that affected the system, and landlords
4 and house -- or housing providers as well as people
5 who are precariously-housed and experiencing
6 homelessness alike.

7 And so it kind of well-rounded my -- all of
8 my previous experience.

9 15. Q. Okay, thank you for that. And I think
10 I had it from your answer but aside from reporting to
11 the board of directors, that's an organization that
12 you led as the executive director, is that fair?

13 A. That's right, yes.

14 16. Q. Thank you. And prior to that, I have
15 it from your CV that you were the executive director
16 of something called, "OCISO," O-C-I-S-O, non-profit
17 housing corporation?

18 A. That's right.

19 17. Q. And when you said that you were on the
20 "landlord side," was that one of the -- was that a
21 landlord, this organization, OCISO?

22 A. OCISO non-profit housing corporation is
23 now called Unity Housing. It is a non-profit housing
24 corporation meaning that it is governed by a board of
25 directors which are community members. And at the

M. J. Houle (Cr.-Ex.) - 8

1 time, had 200 units of non-market housing.

2 Some of them had rent-geared-to-income
3 subsidies, some had what they called the below-market
4 rent subsidies. And some didn't have subsidies but it
5 is not government-owned, it is owned by the community.
6 It's an independent corporation.

7 18. Q. Thank you. And its mandate I take it,
8 is to offer housing outside of the conventional
9 housing market. Is that fair?

10 A. No, the subsidies, the units with the
11 subsidies are needed to be filled through a waitlist
12 and a process determined by the City of Ottawa, as the
13 service manager on behalf of the Ontario Government.

14 But the non-subsidized units were open to
15 anyone from the public.

16 19. Q. Okay, thank you. And just to make sure
17 I understand the timing, you were in that role. But
18 it looks like -- and Greta, I am sorry to interrupt.

19 But it looks like someone named Sarah
20 (indiscernible) is going into the Teams that was part
21 of your appointment, so you might want to drop her a
22 note to let her know that you're -- we're over in the
23 Zoom.

24 A. You would like me to contact ---

25 20. Q. No, no. Greta will do that.

M. J. Houle (Cr.-Ex.) - 9

1 A. Yeah, okay.

2 21. Q. Okay.

3 A. Okay, thank you.

4 22. Q. Thanks very much. And so just I have
5 the timing on your job with OCISO, that was in -- from
6 2015 to 2017. Correct?

7 A. As executive director, yes.

8 23. Q. Okay.

9 A. Because before that, I was their
10 development consultant because I built a Phase III as
11 their development consultant and their project manager
12 for the organization. And I also was a junior project
13 manager for their Phase II.

14 24. Q. Okay, thanks very much. And just to
15 touch very briefly on your past before that, I
16 understand that you had a bit of stint as a
17 professional musician, is that fair?

18 A. Yes. Yes.

19 25. Q. And I get it from my good friends at
20 Gemini, that you had produced or at least recorded two
21 albums, one in 2007 and one in 2008 called, "Our Lady
22 of Broken Souls and Monsters." Is that -- do I have
23 that right?

24 A. Yes. Yes, that's me.

25 26. Q. Okay. Thank you very much. And so I

M. J. Houle (Cr.-Ex.) - 10

1 want to turn if I can to your role as the Federal
2 Housing Advocate. That's a role, I understand, Ms.
3 Houle, that is created by the *National Housing*
4 *Strategy Act*. Is that correct?

5 A. Yes.

6 27. Q. And your role as the National -- or
7 sorry, the Federal Housing Advocate, is set out in
8 Section 13 of that *Act*, is that correct?

9 A. Yes.

10 28. Q. And the office of the Federal Housing
11 Advocate itself is housed at the Canadian Human Rights
12 Commission, is that correct?

13 A. Yes.

14 29. Q. And if I can just turn up briefly the
15 -- I went to the website for the Federal Housing
16 Advocate which is also I think hosted by the Canadian
17 Human Rights Commission, if that's correct?

18 And, Greta, if I could get you to put up the
19 CHRC website page for the Federal Housing Advocate. I
20 am not sure is that -- that's the biography, I think,
21 Greta.

22 I think I wanted to go to the -- it's the
23 actual page that deals with the Federal Housing
24 Advocate itself rather than Ms. Houle's biography
25 which we'll come to separately.

M. J. Houle (Cr.-Ex.) - 11

1 MS. HOAKEN: Right, just give me a quick
2 second.

3 MR. CAPERN: Sorry, Ms. Houle, we're trying
4 to be a bit organized but it's been a bit of
5 frenetic morning on other fronts I
6 understand.

7 THE WITNESS: It's okay, I've got all
8 afternoon for you. So that's fine.

9 MR. CAPERN: So if you could just scroll up
10 at the top of that.

11
12 BY MR. CAPERN:

13 30. Q. This, I understand having been there
14 myself this morning, that this is the web page for the
15 Federal Housing Advocate within the overall website of
16 the Canadian Human Rights Commission. Is that
17 consistent with your understanding of what we're
18 looking at, Ms. Houle?

19 A. Yes.

20 31. Q. Thank you. And if I can scroll down
21 the page to the section that says, "The Advocate's
22 Role." First of all, this is, at least given you're
23 in that role today, this is a correct description of
24 your role as the Federal Housing Advocate, I presume.
25 Is that correct?

M. J. Houle (Cr.-Ex.) - 12

1 A. That's right it is -- it is a, let's
2 just say, a condensed version of what's in the Act.

3 32. Q. Thank you. And is it fair to say that
4 you participated in finalizing this description of
5 your role?

6 A. No. No, that was done by the
7 Commission.

8 33. Q. But it's fair to say that you don't
9 take any issue with the way your role is characterized
10 on the website, correct?

11 A. No.

12 34. Q. Okay, thank you. And, sorry, just to
13 make sure I'm -- I'm asking questions with double
14 negatives and that's not going to help the record. So
15 let me just make sure I've got that right. I am
16 correct that you agree with the description that is
17 found in front of us on the screen, is that fair?

18 A. Yes.

19 35. Q. Thank you. And for the first line, I
20 don't need to read the whole thing. You could do it
21 but well let's take these bit by bit. It says:

22 "... The goal of the Advocate's work is
23 to drive change on key systemic housing
24 issues and advance the right to housing
25 for all in Canada ..."

M. J. Houle (Cr.-Ex.) - 13

1 That correctly describes one aspect of
2 what you are charged with doing as the Federal Housing
3 Advocate, is that fair?

4 A. Yes.

5 36. Q. Okay, and then I would -- I see here a
6 little -- if we could -- if you don't mind, we'll mark
7 this, counsel, as an exhibit, this webpage. Any
8 objection to that, Joanna?

9 MS. MULLEN: No objection, thank you.

10 MR. CAPERN: Thank you.

11
12 EXHIBIT NO. A: Webpage of the Federal Housing
13 Advocate

14
15 BY MR. CAPERN:

16 37. Q. And under that same heading, the
17 Advocate's Role, there are then followed -- paragraphs
18 that follow which I won't read into the record but now
19 that we'll have it marked as an exhibit, they'll all
20 be there.

21 Is it fair to say that each of those
22 paragraphs accurately reflects one or more aspects of
23 your role as the Federal Housing Advocate?

24 A. Yes, yes.

25 38. Q. Thank you. And if I can now go to the

M. J. Houle (Cr.-Ex.) - 14

1 biography, Greta, if that's okay, which is where you
2 had been previously. You're familiar with -- this is
3 a document that I think is on a different website.

4 This appears, I think on the overall
5 Canadian Government website under the Housing and
6 Infrastructure section. You're familiar with this
7 biography, Ms. Houle?

8 A. Yes.

9 39. Q. And did you participate in its
10 drafting?

11 A. I did participate in its drafting.

12 40. Q. And so that the biography, at least as
13 far as you're concerned, is accurate -- was accurate
14 at the time it was made. Is that fair?

15 A. Yes.

16 41. Q. And it remains accurate today?

17 A. Yes.

18 42. Q. Thank you. Could we mark that as an
19 exhibit, please, Joanna?

20 MS. MULLEN: Yes, Exhibit B.

21 MR. CAPERN: Thank you.

22
23 EXHIBIT NO. B: Webpage of Canada Housing and
24 Infrastructure
25

M. J. Houle (Cr.-Ex.) - 15

1 BY MR. CAPERN:

2 43. Q. And in your biography, it says you have
3 been -- and I'm -- it says that you have been:

4 "... Actively involved in advocacy work
5 at a national, provincial and community
6 level ..."

7 That's accurate?

8 A. Yes.

9 44. Q. It also says that you have:

10 "... Advocated for tenant rights and the
11 non-profit housing sector at all three
12 levels of government ..."

13 That's correct?

14 A. Yes.

15 45. Q. And it also says that you've:

16 "... Worked with diverse partners in the
17 sector to foster innovation and
18 entrepreneurship, improve efficiencies,
19 influence key opinion leaders, levered
20 strategic partnerships and addressed
21 gaps in human rights violations related
22 to housing and access to housing ..."

23 And that's also something that's
24 accurate, correct?

25 A. Yes.

M. J. Houle (Cr.-Ex.) - 16

1 46. Q. Thank you. If I can turn to Page 40 or
2 sorry, Paragraph 40 of your affidavit, Ms. Houle. I
3 am happy to pull that up if but I am going to pull it
4 up on screen but you'll have it in front of you. Let
5 me know when you're there.

6 A. I have it and thank you.

7 47. Q. Okay, and just to be clear, did you
8 review your affidavit again in advance in preparation
9 for your examination today?

10 A. Yes.

11 48. Q. All right. And is it fair to say that
12 your affidavit was true and complete at the time that
13 you swore it?

14 A. Yes.

15 49. Q. And it remains true and complete today?

16 A. Yes.

17 50. Q. Thank you. And in Paragraph 40, and I
18 am paraphrasing slightly, but in that paragraph, you
19 urge municipalities to work with people living in
20 encampments to find solutions that include access to
21 permanent and adequate housing that meets their needs.
22 Is that a fair observation?

23 A. Yes.

24 51. Q. And you agree with me that persons
25 living in encampments may have needs that are unique

M. J. Houle (Cr.-Ex.) - 17

1 to their individual circumstances?

2 A. Yes.

3 52. Q. And to the greatest extent possible,
4 making assessments of those needs should be done on an
5 individual basis?

6 A. Yes. For their independent needs, yes.

7 53. Q. Yes. And also to the greatest extent
8 possible, housing plans for these individuals should
9 meet their individual needs and circumstances?

10 A. Yes. Yes.

11 54. Q. Thank you. And to the extent that
12 municipalities are working with residents in
13 encampments to develop individualized plans for
14 housing for them, you agree that that's a good thing
15 to do?

16 A. Yes, that's part of the solution.

17 55. Q. Thank you. And I want to ask you about
18 two adjectives that you use in that paragraph. And
19 those adjectives are "adequate" and "permanent." And
20 you agree with me that those words have different
21 meanings?

22 A. Yes.

23 56. Q. And when applied to your use of them in
24 Paragraph 40 of your affidavit, I am correct that you
25 intend them to mean different things. Correct?

M. J. Houle (Cr.-Ex.) - 18

1 A. Yes. However -- however, the term
2 "adequate housing" stems from the UN definition of
3 adequate housing which includes security of tenure and
4 security of tenure does mean permanent housing.

5 57. Q. Okay. But you agree with me, Ms.
6 Houle, that speaking practically for a moment, that
7 housing can be adequate without being permanent?

8 A. Not by the UN definition. No.

9 58. Q. Well, I'm asking ---

10 A. The reason ---

11 59. Q. --- for your views of this. So, for
12 example, any of us who rent accommodations as tenants,
13 may not have security of tenure in those places. Do
14 you agree with that?

15 A. No.

16 60. Q. Okay.

17 A. No, people who rent have a lease and
18 they have security of tenure.

19 61. Q. Right, but they can be asked to leave
20 at the end of their term. Correct?

21 A. Depends on what province but to my
22 knowledge, no province has fixed term leases anymore.

23 62. Q. Okay, but to be said there are clearly
24 circumstances in which landlords of regular
25 accommodation can ask and require people to leave that

M. J. Houle (Cr.-Ex.) - 19

1 accommodation. Do you agree with that?

2 A. There are processes in place in order
3 to make that happen but it's not because the lease has
4 come to an end. And it usually has in place
5 protections for tenants from arbitrary eviction.

6 So technically, these count as security of
7 tenure.

8 63. Q. Ms. Houle, in your ---

9 A. So (indiscernible).

10 64. Q. So in your mind then, if I can put it
11 that way, that even rental accommodations have some
12 element of permanency to them?

13 A. Yes. Yes.

14 65. Q. Okay. Thank you. I just want to make
15 sure I had it clear. But when you use the two
16 adjectives in your -- in Paragraph 40 of your
17 affidavit, I am going to suggest to you that you
18 appreciate, particularly in the existing circumstances
19 in which we find ourselves in Canada, that we may be
20 in circumstances in which we need to find adequate
21 housing that is not permanent. Do you agree with
22 that?

23 A. According to the *National Housing*
24 *Strategy Act* is the human right to adequate housing
25 has been enshrined in domestic law in Canada, applies

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1 to all levels of government.

2 And the term "adequate" has, as I said, a UN
3 definition and it includes security of tenure. The
4 reason why I parse them out in this affidavit is
5 because quite often most people don't understand that
6 adequate housing includes permanent. But it cannot be
7 considered adequate housing without security of
8 tenure. And that security of tenure includes a lease,
9 includes housing rates that every other individual in
10 that province will enjoy.

11 And therefore, a lot of housing, temporary
12 housing is a misnomer. It's an oxymoron and it cannot
13 be considered to be adequate in the same thing that
14 shelter or emergency shelters cannot be considered
15 adequate housing either. Because they do not hold a
16 lease that gives them the same tenancy rights as
17 everyone else in the province.

18 66. Q. All right. So what I'm taking from
19 what you're saying is that they are -- for the
20 purposes of your affidavit, I am to read those
21 synonymously. That "adequate" and "permanent" mean
22 the same thing. Is that what you're saying?

23 A. No. "Adequate" includes "permanent."

24 67. Q. Okay.

25 A. But "permanent" doesn't include

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1 "adequate." "Adequate" also includes being habitable,
2 having enough bedrooms for everyone, being in good
3 condition and free of pests, it's located in an area
4 that is close to resources. And in case of Indigenous
5 folks, to be culturally-appropriate.

6 68. Q. And so if it had all -- if housing had
7 all of those attributes but was not permanent, in your
8 view, it would still be adequate?

9 A. No. No, it needs to include security
10 of tenure.

11 69. Q. Okay, do you consider security of
12 tenure and permanence to mean the same thing?

13 A. Yes. Yes.

14 70. Q. So without security of tenure, housing
15 is fundamentally inadequate in your view?

16 A. That's right.

17 71. Q. Okay. And that's the case irrespective
18 of a municipality's ability to provide that security
19 of tenure at any given point in time. Is that your
20 evidence?

21 A. That all levels of government have a
22 responsibility to the -- profess a realization of
23 adequate housing.

24 72. Q. Right, but ---

25 A. Human right to housing.

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1 73. Q. Right, but I'm talking about
2 municipalities that have to deal with this on the
3 ground, Ms. Houle. Right, I am not talking about a
4 pipe dream about what we're going to have in 20 or 25
5 or 30 years when your work is done as the Federal
6 Advocate. I am talking about what we're dealing with
7 on the ground, right now. And I am asking you for
8 your evidence in those circumstances.

9 Is your evidence that housing is inadequate?
10 Housing as it is supplied today by municipalities is
11 inadequate if it does not have security of tenure
12 attached to it?

13 A. Yes. That's what I'm saying.

14 74. Q. That's your evidence. Okay, thanks.
15 And I want to then turn you to Paragraph 50 of
16 affidavit which I think deals more with the real
17 politic of the day.

18 Do you have that in front of you?

19 A. Yes. Yes.

20 75. Q. Now you say in there that these
21 permanent solutions -- and I take it that the
22 permanent solutions you are returning to there, are
23 permanent solutions for housing for people in
24 encampments. That's what you're referring to?

25 A. Yes.

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1 76. Q. And you say in your affidavit that:
2 "... These permanent solutions are costly
3 and time-consuming to implement. They
4 cannot meet the urgent and immediate
5 needs of people experiencing
6 homelessness. In the short term,
7 encampment residents must be supported
8 safely including by providing them with
9 basic services such as toilets,
10 showers, drinking water, etcetera ..."

11 And you agree with me, Ms. Houle, that
12 the number of individuals in any given community
13 experiencing homelessness can fluctuate from time to
14 time?

15 A. Yes.

16 77. Q. And indeed there can be circumstances
17 in which the number of such individuals can increase,
18 right?

19 A. Yes.

20 78. Q. And indeed, it can periodically do so
21 rapidly, correct?

22 A. Yes.

23 79. Q. And in fact, we experienced some of the
24 during the pandemic, correct?

25 A. Yes.

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1 80. Q. And you agree with me that it is
2 possible that municipalities may not have available to
3 them, at a particular point in time, sufficient
4 permanent housing to be made available to house
5 persons experiencing homelessness. Do you agree with
6 that?

7 A. Yes.

8 81. Q. That's in fact our lived experience
9 across communities in Canada today, isn't it?

10 A. Yes. Yes.

11 82. Q. And you agree with me that there may be
12 differing views on what constitutes adequate temporary
13 housing? Do you agree with that?

14 A. I'm not sure what you mean by that.

15 83. Q. Well, what I mean is that different
16 people might hold different views than you do about
17 what constitutes adequate housing that is temporary in
18 nature. Do you agree with that?

19 A. Again, I'm not sure what -- if we -- if
20 you and I agree on what is considered to be adequate
21 housing through the UN definition, through the
22 *National Housing Strategy Act*, maybe are you talking
23 about accommodation rather than housing, adequate
24 accommodation? Was that what you're referring to?

25 84. Q. Well, you're the expert in the field,

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1 Ms. Houle, so you're going to have to help me with
2 what you mean by this. Because what I am
3 understanding you to mean is that without some
4 security of tenure ---

5 A. Mm-hmm.

6 85. Q. --- housing is inadequate.

7 A. That's right.

8 86. Q. That's what I understood your evidence
9 to be.

10 A. Yes.

11 87. Q. Right? And inherently then, any form
12 of temporary accommodation that does not have security
13 of tenure, on your evidence, that would be inadequate
14 housing.

15 A. That's right. Yes.

16 88. Q. Okay, and so when you use the word
17 "accommodation," is that something different than
18 housing?

19 A. Yes. Yes. What it means is that
20 people are given a place to stay where that's not
21 adequate, that does not meet the seven definitions of
22 adequate housing. However, it is -- it can be various
23 forms of roofs over their heads. Including temporary
24 accommodation, emergency shelters, you know, sleeping
25 (indiscernible), couch-surfing. It is -- it falls

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1 into the definition of homelessness because they don't
2 have the security of tenure piece. But it is a -- it
3 can be a roof over their heads. So that's why I use
4 the term "accommodation."

5 89. Q. And you agree with me that at least in
6 some circumstances, having a roof over your head,
7 however, impermanent it may be, can be in some
8 circumstances, preferable to living in an encampment.
9 Do you agree with that?

10 A. That is up to the individual to make
11 that choice for themselves.

12 90. Q. Okay, on that we have an agreement. So
13 you agree with me that, for at least at a minimum, to
14 the extent that a person accepts temporary
15 accommodation or a temporary roof over the head, that
16 that's -- that that -- it's up to them to decide
17 whether that's preferable to living in an encampment?

18 A. It is up to them. Yes.

19 91. Q. Thank you. If I can ask you about this
20 -- the concept in your affidavit about forced
21 evictions from encampments, I take it from your
22 affidavit that as a general proposition, you are
23 opposed to forced evictions from encampments?

24 A. Yes.

25 92. Q. Right. And that is particularly the

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1 case in circumstance in which encampment residents are
2 not provided with notice that the encampment is
3 closing? Is that fair?

4 A. It's more than that.

5 93. Q. No, yeah, I wasn't -- I wasn't
6 suggesting that that was the extent of it. I'm just
7 going to take these one bit at a time, if that's okay.
8 So let's start with them doing this piece by piece.

9 So let's start with, you'll agree with me
10 that -- at least your evidence is that you're opposed
11 to forced evictions in circumstances where no notice
12 is given, that's fair?

13 A. That is one of the elements.

14 94. Q. Right, and another one would be where,
15 for example, the residents are not provided with
16 alternative housing options concurrent with their
17 eviction from the encampment. Right?

18 A. That they choose to take.

19 95. Q. Right. Okay, all right, let's leave it
20 at that. And in your affidavit, as I've read it, you
21 expressed some of your concerns. And I am not
22 pretending this is exhaustive but you've expressed at
23 least some concerns about the potential impact of
24 forced evictions on residents of the encampments?
25 That's part of the subject of your affidavit?

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1 A. Yes.

2 96. Q. And I'd like to ask you some questions
3 that relate to some of those, as I understand, as one
4 of those concerns.

5 So first of all, if encampment residents are
6 removed from a given site, being provided with secure
7 storage of their belongings, that may assist them in
8 alleviating part of the burden on them as that arising
9 from the eviction. Is that a fair observation

10 A. Yes, if I may. I think the fundamental
11 part about the forced eviction is about meaningful
12 engagement with the people living in the encampment to
13 find solutions that meet their needs. Not necessarily
14 on a one-to-one basis in form of a housing plan.

15 Because a housing plan is about their
16 future, where they're going to live as individuals.
17 But as an encampment which is a collective of people,
18 can be an individual. What the first thing that needs
19 to happen if the encampment is to be moved, or shut
20 down, is that meaningful engagement piece.

21 So that meaningful engagement piece will
22 help determine the proper notice, will help determine
23 where people's things are going to be held, what kinds
24 of options that people are going to be offered in
25 terms of alternative shelter, and whether or not those

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1 will meet their needs as a collective and as
2 individuals.

3 And it's -- or if an alternative site needs
4 to be found. And what that alternative site needs to
5 have in order to not make the situation worse for
6 people in encampments.

7 Because what's key here is like so a human
8 rights-based approach is about meaningful engagement.
9 So the meaningful engagement will enumerate what
10 people want and need and it's not a top-down approach,
11 first of all.

12 But that the other part is -- sorry, I'm
13 sick today, I've lost my train of thought. But it is
14 -- it's -- it's so that they are part of the solution-
15 making. If I can direct you, if allowed, to ---

16 97. Q. If I can, Ms. Houle, I just ---

17 A. Yeah.

18 98. Q. I mean that the purpose of the
19 afternoon here was actually for me to ask you
20 questions. I'm sorry to cut ---

21 A. Sure.

22 99. Q. --- you off from that.

23 A. Sure.

24 100. Q. And I just want (indiscernible) to the
25 answer that you had. And your counsel or Ms. Mullen

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1 will have an opportunity to re-examine you at the end
2 of this if she thinks I've been unfair in any way been
3 ---

4 A. Okay.

5 101. Q. --- cutting off your evidence. And so
6 I apologize for doing that. I just -- as I've said on
7 a couple of the other cross-examinations, this topic
8 is near and dear and of great concern to all of us.
9 And it's one that would invite extensive conversations
10 that could go on ad infinitum.

11 And so unfortunately, I'm just -- what I
12 would ask you to do is just stay with my questions if
13 you can and give the answer. Just to go back to the
14 question that I asked you. I appreciate your evidence
15 that meaningful engagement with the encampment
16 residents is important. And I appreciate that's your
17 perspective. But I had asked what I think a fairly
18 straight-forward question.

19 I think you agreed with me that, for
20 example, to the extent that municipalities provide for
21 the secure storage of the belongings of encampment
22 residents in the course of moving them, that that may
23 alleviate some of the -- at least part of the concern
24 that you enumerate in your affidavit. And I think you
25 agreed with that.

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1 A. Well, my response to that is if that is
2 what the people living in encampment have identified
3 as something that they need and that they want.

4 102. Q. Thank you and I think one of the other
5 issues you raise with some of the various bylaws that
6 have been enacted in order to clear encampments, one
7 of the things that you took exception to was the
8 punitive nature and the application of fines, for
9 example, on encampment residents who don't leave or
10 who violate the bylaw. That was a concern of yours,
11 if I've understood it correctly. Is that ---

12 A. Yes.

13 103. Q. And so, for example, the removal of
14 fines or not pursuing fines is something that would
15 also alleviate the impact of the closure of an
16 encampment. Is that a fair observation?

17 A. What it would do is remove the
18 criminalization of being homeless.

19 104. Q. Yeah, and that's ---

20 A. That would be -- but that would not
21 necessarily alleviate the burden of the closure of the
22 encampment.

23 105. Q. Yeah, no, I think that's -- I
24 understand your point. But certainly stepping away
25 from fining people for staying in an encampment and

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1 for staying on a property after the encampment has
2 been closed, that -- you would view as a good sign.
3 Is that fair?

4 A. I wouldn't use the word "good." I
5 would use as bare minimum of not having an approach
6 that's criminalizing, again, poverty and homelessness.

7 106. Q. Thank you. So certainly a preferred
8 approach, if I can put it that way?

9 A. Yes.

10 107. Q. Yeah, thank you. And if efforts are
11 made to find alternative accommodation for residents
12 closing an encampment, rather than evicting them with
13 nowhere to go, you agree that that's preferable?

14 A. The solution to encampments is
15 permanent, adequate housing. That's been clear in my
16 affidavit. It's clear in all of my reports.

17 108. Q. All right. But certainly, you'll agree
18 that as between a municipality simply evicting people
19 from an encampment versus closing the encampment and
20 seeking alternative accommodation for them, the latter
21 is to be preferred. Is that fair?

22 A. It is -- the context is important to
23 understand whether or not this is housing that people
24 choose. Or these are accommodations that people
25 choose.

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1 So it's not just an act of giving people a
2 choice of things that they don't want.

3 109. Q. Okay. I understand that, but I'm
4 asking you to pick perhaps the lesser of two evils,
5 Ms. Houle, which is, unfortunately, I think where we
6 find ourselves in this particular era.

7 If I can ask you to go back to my question
8 which is to say closing an encampment with no
9 alternative accommodation strategy versus closing an
10 encampment and seeking to make arrangements for
11 alternative accommodation for residents, the latter is
12 preferable to the former. Is that fair?

13 A. Again, it is baseline. It is the
14 minimum of what municipalities should be doing.

15 110. Q. All right. And just the last one which
16 may be self-evident but -- from your earlier answer.
17 But I just ask you to confirm that you agree with me
18 that providing residents of an encampment that must
19 close with several months of notice is preferable to
20 providing them with no notice at all. Correct?

21 A. Yes. Yes.

22 111. Q. Right. And you agree with me that it
23 is possible that the provision of such notice may
24 alleviate the burden of the closure of the encampment,
25 not eliminate but alleviate the burden of the closure

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1 of the encampment on some residents. Do you agree
2 with that?

3 A. What's interesting about the -- any
4 kind of notice, is with the people living in
5 encampments that have been given notice, is that it
6 increases the stress that they're experiencing.
7 Because most of the time, they don't have anywhere
8 else to go. And that just in giving a notice, whether
9 it's short term or long term, also causes a lot of
10 harm.

11 People have chosen to live in the encampment
12 because they have nowhere else to go or this is the
13 least of the bad choices that they have. It is
14 usually close to amenities, close to resources that
15 they need in order to survive.

16 People living in encampments are people that
17 are surviving. And so when they're told that this
18 place where they have found at least just the least
19 terrible of the terrible options that they are
20 afforded, and it causes an extreme amount of stress,
21 regardless of that threat of eviction coming true.

22 This is where we're going to see increase in
23 overdoses, we're going to see an increase of
24 aggravated mental health, aggravated physical health
25 issues as well. Because then people become desperate.

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1 112. Q. Right.

2 A. They don't know where to turn. So
3 whether ---

4 113. Q. So you're ---

5 A. --- it's a short-term notice or a long-
6 term notice, just the fact that their home is being
7 threatened, it's their home, causes them so much harm.
8 And this has been consistent from coast to coast to
9 coast.

10 114. Q. Like but certainly as between providing
11 no notice and providing some notice, particularly if
12 that notice is accompanied by assistance in providing
13 alternative accommodation, that is preferable.
14 Correct? It's preferable to provide -- to do the
15 latter than the former? You agree with that?

16 A. Yes, but it's important to note the
17 cause -- the harm that it's still causing people.

18 115. Q. I understand. Well, I mean, I want to
19 ask you about something I think you've appreciated at
20 least as I've read your affidavit which is that you
21 appear to acknowledge, including at Paragraph 52 of
22 your affidavit, that municipalities are on the
23 frontlines of addressing homelessness in Canada.
24 That's a fair observation?

25 A. Yes.

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1 116. Q. And you also observe in that paragraph
2 that municipalities have limited resources.

3 A. Yes. Most of them do.

4 117. Q. Yeah, and you observed in that, I think
5 that -- I'm including in that, financial resources.
6 That's included in your broader use of the word
7 "resources." Correct?

8 A. Yes.

9 118. Q. Thank you. And I'd like to take you to
10 one of the reports that you issued in your capacity as
11 the Federal Housing Advocate. And this one is found
12 -- it's found at least in my version -- there's a --
13 we have a PDF version of your affidavit that includes
14 the affidavit. So it's at Page 615 of the PDF.
15 Greta, what exhibit is that in? Is that Exhibit J?

16 MS. HOAKEN: Let me see. Am I on the
17 correct page here?

18 MR. CAPERN: I think so. It was at 615 of
19 the PDF. I am going to put that back.

20 We're going to ---

21
22 BY MR. CAPERN:

23 119. Q. Okay, so it's at Page 60. So we're
24 just engaging other levels of government. I think
25 it's found in there.

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1 And I am just going to read this to you
2 because I'm just -- I am having trouble seeing it on
3 my screen in here at the moment. But this is what I
4 took from your report if you can just hear my words on
5 this, Ms. Houle. It's in your report stating that:

6 "... Encampments are an issue of growing
7 concern. Responses to encampments have
8 been largely left to municipal
9 governments which have limited
10 resources to appropriately support
11 encampment residents. However, all
12 levels of government share obligations
13 to respect and protect the rights and
14 dignity of encampment residents and
15 people experiencing homelessness ..."

16 A. Yes.

17 120. Q. I see the intrepid Ms. Hoaken has found
18 what I was looking for and unable to see.

19 And then you go on to say, I think in a
20 separate part of this:

21 "... The conditions that lead to people
22 living in encampments are systemic and
23 complex and it will take all levels of
24 government to address them ..."

25 A. That's right.

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1 121. Q. That those are -- that assembly of
2 things that I just read, those are your words, Ms.
3 Houle, correct?

4 A. Yes. Yes.

5 122. Q. And obviously, you agree with them or
6 at least you agreed at the time you made your report,
7 correct?

8 A. Yes.

9 123. Q. And you agree with them today?

10 A. Yes.

11 124. Q. And you agree with me that the current
12 level of financial and other support coming from other
13 levels of government to municipalities is insufficient
14 to address issues of homelessness adequately in all
15 municipalities in Canada?

16 A. That's making a leap.

17 125. Q. Yes, it is and I am asking you to make
18 it with me. Based on your experience as the Federal
19 Housing Advocate.

20 A. I think in general, yes. I cannot make
21 a comment about the budget that isn't in the Waterloo
22 Region.

23 126. Q. Yeah, no, I appreciate that. I am just
24 asking -- was asking for the broader proposition.
25 Because what I didn't see in your affidavit was

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1 significant reference to the resources of the Region
2 of Waterloo.

3 But I am going to take you to another report
4 at PDF Page 710. And at that, you'll see that Ms.
5 Hoaken has just highlighted the portion I am going to
6 ask you about.

7 You can read that. It's the paragraph that
8 begins:

9 "... While municipalities largely have
10 primary jurisdiction over encampments,
11 they often lack the resources and
12 competencies to adequately address the
13 underlying structural causes driving
14 homelessness and encampments ..."

15 And you'll see -- I'll let you read the
16 rest of that. It's that entire paragraph. Do you see
17 that?

18 A. Yes. Yeah.

19 127. Q. But that statement at the time you made
20 it was true, right?

21 A. Yes.

22 128. Q. And remains true today, right?

23 A. Yes.

24 129. Q. And then I am going to get you to turn
25 up -- we located -- and I just wanted to get you to

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1 confirm, there's an article we found in the Ottawa
2 Citizen which Ms. Hoaken is going to pull up.

3 MS. MULLEN: Sorry, Gord, before we move on,
4 were you able to find out what exhibits
5 those two pages were from, 615 and 710?

6 MR. CAPERN: We will send you an email
7 afterword, Joanna. The answer is, no, we
8 didn't. Because it didn't write it down
9 when I made my outline because I'm like
10 that.

11 MS. MULLEN: All right, thank you.

12 MR. CAPERN: Sorry. It's why Greta's life
13 is so difficult.

14
15 BY MR. CAPERN:

16 130. Q. If you could just have a look at this,
17 Ms. Houle. I'll get you to confirm this. This
18 appears to me to be an article from the -- that was
19 published in the Ottawa Citizen newspaper which I got
20 to deliver back in the old days. Dated February 26,
21 2024. Can I get you to confirm that that's an article
22 that you wrote for publication in the Citizen?

23 A. Yes.

24 131. Q. All right, thank you. And, Joanna, do
25 you mind if we mark that as an exhibit?

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1 MS. MULLEN: Yes. It's Exhibit C.

2 MR. CAPERN: Thank you.

3
4 EXHIBIT NO. C: Ottawa Citizen article,
5 dated February 26, 2024
6

7 BY MR. CAPERN:

8 132. Q. And that article, I am happy to have
9 you review it again, Ms. Houle, if you'd like to do
10 so. But that article accurately reflected your views
11 at the time you wrote it?

12 A. Yes.

13 133. Q. And it accurately reflects your views
14 now about two years later, is that fair to say?

15 A. I am going to admit to you that I've
16 been quoted and I've written multiple op eds and I've
17 been quoted in multiple media interviews. So I would
18 require a few minutes to read it. I don't remember
19 it. Well, I remembered writing it but I don't
20 remember exactly what it says.

21 134. Q. Okay, so why don't you take a moment
22 and read it and just tell me whether there's anything
23 in it that you view as being inaccurate today. Wait,
24 just let me put it differently: whether it continues
25 to reflect your views, is what I would like.

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1 A. Sure. If you could scroll down,
2 please. If you could scroll down. Okay. Okay, thank
3 you. So there's -- this -- the nature of an op ed is
4 to have a minimum -- or a maximum amount of words in
5 order to get a message across.

6 So the main message of this is about putting
7 political pressure on politicians to find an -- to
8 address the underlying causes of encampments as
9 opposed to directing the anger directly at people in
10 encampments. And refusing to be polarized or
11 weaponized in the conversation.

12 There -- there are a few things missing from
13 that piece, if that was going to be used as the only
14 evidence that -- of -- it doesn't mention municipal
15 governments. That is something that also needs to be
16 at the table in terms of finding solutions.

17 And the other piece that's missing or that
18 you and I have not elaborated on, is that the human
19 right to housing is intertwined and cannot be
20 extracted from the basic human rights that people
21 have. The right to life, dignity of the person and
22 safety.

23 And in -- in the event that governments
24 cannot provide adequate housing in the definition that
25 I have provided for this testimony, governments still

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1 have an obligation to meet the basic human needs of
2 people such as around the right to life, security and
3 safety of the person.

4 So the right to have access to clean
5 drinking water, for example. To have access to heat
6 and cooling, to have access to sanitation, to access
7 to food. And so what these pieces are very explicit
8 about is, you know, there is encampments, there is
9 recognizing that people in encampments have the human
10 rights and human right to housing.

11 That the solution is adequate housing and
12 that in absence of that or to get to that, the human
13 rights-based approach is about meaningful engagement
14 with people to find the solutions and to continue to
15 engage with them to make sure that their solutions are
16 actually part of the solutions. And it's not a top-
17 down approach or a box-ticking exercise.

18 But at the same time, while what I think
19 you're getting at is that housing, adequate housing,
20 there's not enough of it to address the need,
21 governments still have a responsibility around
22 ensuring that people are safe. And they get to
23 understand what those are and what people are willing
24 to take through meaningful engagement.

25 135. Q. Okay, thank you. My question was a

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1 little different than that.

2 A. Okay.

3 136. Q. Which are -- and if I can -- let's just
4 leave aside for the moment, your call on the federal
5 government to convene a national encampments response
6 plan by August 31st of 2021, leaving aside that
7 paragraph in your article, is it fair to say that that
8 article, while not exhaustive of your views, reflects
9 at least some of your views?

10 A. Yes.

11 137. Q. Today?

12 A. Yes, absolutely.

13 138. Q. Thank you. And if I can ask you
14 because I don't know the answer to this, did the
15 federal government, in fact, convene a national
16 encampments response plan by August the 31st as you
17 asked?

18 A. Not exactly as I had hoped. What the
19 federal government did was find new funds, it was \$250
20 million to be matched by the provinces or
21 municipalities for an encampments -- human rights-
22 based encampments response.

23 So those funds were doled out, they were
24 doled out very quickly. It was meant to be, while a
25 drop in the bucket, it was, as far as we know, the

M. J. Houle (Cr.-Ex.) - 45

1 funds end in March of this year. But they were, at
2 the time, meant to be the beginning ---

3 139. Q. Okay.

4 A. --- of support.

5 140. Q. Right. And certainly from your
6 perspective, that is not an adequate or a complete end
7 of the responsibilities of the federal government in
8 this area. Can you agree with that?

9 A. No, it was supposed to be the
10 beginning. Yeah.

11 141. Q. Okay, and so your expectation would be
12 that there would be more resources made available by
13 our federal government to work with the solution to
14 create -- to help create a solution for encampments.

15 A. With other levels of government, yes.

16 142. Q. Yeah, no, I'm going to take these one
17 at a time. Again, unfortunately, with cross-
18 examinations, I have to do things stepwise.

19 But certainly, your expectation as the
20 Federal Housing Advocate is that the federal
21 government would play a role, correct?

22 A. The federal government would play the
23 leadership role.

24 143. Q. Okay, thank you and then the provincial
25 governments would also play a role, correct?

M. J. Houle (Cr.-Ex.) - 46

1 A. Yes.

2 144. Q. As would the municipalities themselves?

3 A. Yes.

4 145. Q. Okay. Thank you. And so just to make
5 sure I've captured my understanding of your evidence
6 correctly then. It's fair to say that you agree, just
7 going back to where we were a couple of minutes ago,
8 you agree that municipalities are currently limited in
9 their ability to address homelessness?

10 A. I think many of them are, yes.

11 146. Q. And those include limits on the
12 financial resources that they have at their disposal?
13 Right?

14 A. Well, they -- it can. It can.

15 147. Q. Thank you and that's why, among other
16 things, you've called for the federal government to be
17 involved in addressing the issues of homelessness on a
18 nation level. Is that fair?

19 A. On the national level because of the
20 issues that, well, first that the human right to
21 housing has been enshrined at the federal, at the
22 national level. And that those rights are being
23 realized disproportionately or not the same due to
24 invisible lines. Due to municipal lines, provincial
25 territorial lines, it's not being done equally and

M. J. Houle (Cr.-Ex.) - 47

1 that's why we need federal leadership in this.

2 And terms in municipal budgets or municipal
3 prioritization of spending, it needs to be clear that
4 again, the UN Covenant to Economic, Social and
5 Cultural Rights, calls on all levels of government to
6 address homelessness as a matter of priority. And to
7 have maximum resources allocated to address the
8 systemic issues.

9 And I'm going to give you an example of
10 where Ottawa had done their part. In the early 2000s,
11 the City of Ottawa under Jim Watson as a mayor at the
12 time, had allocated over a million dollars in new
13 rights supplements in order to provide permanent,
14 adequate housing for people experiencing homelessness.

15 So this is one of the mechanisms that any
16 municipality can, should they allocate all maximum
17 resources and treat as priority. So it's a matter of
18 choice. I have not seen again the Waterloo --
19 Kitchener-Waterloo budget. I am not in a position to
20 comment on the amount of resources or what they can
21 cut. But municipalities have done this without the
22 expectation of getting more funds from the federal
23 government.

24 148. Q. Understood. All right. So I am going
25 to ask you by way of undertaking, please, Ms. Houle,

M. J. Houle (Cr.-Ex.) - 48

1 if you can. I don't need to get a copy of every
2 article in which you've been quoted. I am sure they
3 are myriad in number.

4 But if you would produce for me, please, any
5 op eds that you've written in addition to the one that
6 we've marked as an exhibit here that you wrote for the
7 Citizen. Would you produce those, please, to Ms.
8 Mullen so that we can review those?

9 A. Sure, absolutely.

10 **UNDERTAKING**

11
12 149. Q. Thank you. I want to speak to you --
13 ask you a few questions about your role as an expert
14 or as a proposed expert in this case, Ms. Houle.

15 If I can go to -- you'll recall that in the
16 course of swearing your affidavit, you also were asked
17 and did deliver what we refer to as an expert's
18 certificate for the benefit of the court. You're
19 familiar with having done that?

20 A. Yes.

21 150. Q. Okay, thank you. And sorry, I missed
22 -- I called it a certificate, it's actually an
23 acknowledgement, Ms. Houle. And this, I put that in
24 front of you here and this is the acknowledgement that
25 you signed together with your affidavit. Is that

M. J. Houle (Cr.-Ex.) - 49

1 correct?

2 A. Yes. Yes.

3 151. Q. Right. And then if I can take you to
4 the Paragraph 3, you've acknowledged that your duty
5 was to provide opinion evidence that is fair,
6 objective and non-partisan, do you agree with me?

7 A. That's right. Yes.

8 152. Q. To provide opinion evidence that is
9 related only to matters that are within your area of
10 expertise, right?

11 A. Yes.

12 153. Q. And to provide such additional
13 assistance to the court as the court may reasonably
14 require to determine a matter in issue. You agreed to
15 do that as well, right?

16 A. Yes. Yes.

17 154. Q. And that you understand that you're, in
18 discharging your obligations to the court, that you
19 should be honest and forthright with the court, right?

20 A. Absolutely.

21 155. Q. Right. And you agree with me that it's
22 fair that you should disclose to the court anything
23 that might impact on your impartiality or
24 independence?

25 A. Oh, yes, absolutely.

M. J. Houle (Cr.-Ex.) - 50

1 156. Q. Right. And you agree with me that it's
2 not your role in this matter or any matter indeed, to
3 express opinions on matter of law? You understand
4 that, correct?

5 A. Yes.

6 157. Q. Okay. And you understand that that's
7 the role of the judge in the case, right?

8 A. Right.

9 158. Q. And to the extent that your affidavit
10 encroaches intentionally or otherwise into expressing
11 opinions on matters of law, you agreed that the court
12 should disregard them?

13 MS. SCHUIITEMA: I am going to object to that
14 question, Gord. I don't know if that's an
15 appropriate question for her to even be
16 answering.

17 MR. CAPERN: Oh, okay.

18
19 BY MR. CAPERN:

20 159. Q. I am going to take you to Paragraph 54
21 of your affidavit, Ms. Houle, if I can.

22 A. Yeah, I'm here.

23 160. Q. Thank you. In Paragraph 54, you say
24 that during 2023 you wrote open letters to several
25 municipal governments including Prince George,

M. J. Houle (Cr.-Ex.) - 51

1 Vancouver and Barrie, to express your concerns about
2 their responses to the issues raised by encampments?
3 Do you see that?

4 A. Yes.

5 161. Q. And in saying that, you disclosed to
6 the court that you had been active in writing letters
7 directly to certain municipalities to express your
8 concerns. Right?

9 A. Yes.

10 162. Q. And your affidavit, if I'm recalling
11 correctly, was sworn -- in this matter was sworn on
12 August the 15th of 2025, is that correct?

13 A. Yes.

14 163. Q. Okay, thank you. I am going to show
15 you a letter that is dated July 16th of 2025, about a
16 month before you swore your affidavit. You can take a
17 moment and review this letter, if you'd like, Ms.
18 Houle.

19 A. Thank you.

20
21 --- SCREENSHARE
22

23 164. Q. I am going to get you to confirm it at
24 the end of it that this is a letter that you sent to
25 the Region of Waterloo on that date.

M. J. Houle (Cr.-Ex.) - 52

1 A. Okay. Okay, hold on, hold on. Wait,
2 wait, wait. Okay, thank you. Take your time and move
3 down to the next page. If you could scroll down,
4 please. Yeah, thank you. And if you can scroll down,
5 please. Okay, stop, stop. If you can go up just a
6 little bit. Okay, thank you. Yeah, you can scroll
7 down, please. Thank you.

8 165. Q. So now you've had an opportunity to
9 review this, Ms. Houle, you'll confirm that this is a
10 letter that you wrote to the Region of Waterloo on
11 July 16th, 2025?

12 A. Yes.

13 166. Q. All right, can we mark that as the next
14 exhibit, please?

15 MS. MULLEN: Yes, Exhibit D.

16 MR. CAPERN: Thank you.

17
18 EXHIBIT NO. D: Letter to the Region of Waterloo,
19 dated July 16, 2025

20
21 BY MR. CAPERN:

22 167. Q. And that letter was not disclosed in
23 your affidavit, Ms. Houle, correct?

24 A. No, I don't think so, no.

25 168. Q. No, and indeed to the best of your

M. J. Houle (Cr.-Ex.) - 53

1 knowledge, that letter has not been disclosed to the
2 court at all in this proceeding, correct?

3 A. I don't think so.

4 169. Q. Yeah. And did you inform Ms. Schuitema
5 or anybody else at Waterloo Community -- or sorry,
6 Waterloo Region Community Legal Services that you had
7 written this letter to the Region of Waterloo?

8 A. Most of the consultation around my
9 affidavit was done with my colleagues. So I did not
10 mention this and I don't know if my colleagues have.

11 170. Q. Okay. Well, I am going to assume that
12 neither you nor anybody on your team disclosed this to
13 Ms. Schuitema or anybody, unless you tell me
14 otherwise.

15 MS. SCHUIITEMA: Is it possible for me to
16 give some context for this, Gord, or is that
17 not appropriate?

18 MR. CAPERN: I don't think that's
19 appropriate.

20 MS. SCHUIITEMA: Okay.

21
22 BY MR. CAPERN:

23 171. Q. In any event, this is something that
24 you chose not to disclose in your affidavit, correct?

25 A. That is not exactly right. I -- it's

M. J. Houle (Cr.-Ex.) - 54

1 not that I didn't choose to, it just isn't. I wasn't
2 part of the consultation or part of the -- the basis
3 of the primary discussions around what should and
4 shouldn't be part of my affidavit.

5 172. Q. Okay, but you understood your duty to
6 the court, Ms. Houle, was to provide -- to be candid
7 with the court. Right?

8 A. Yes.

9 173. Q. And you understood that part of that
10 was disclosing to the court information that might
11 affect the court's view of your independence and
12 impartiality. Right?

13 A. Yeah, again, I am not aware of the
14 discussion that took place around this -- this letter.

15 174. Q. But whatever the circumstances, you
16 agree with me that this letter was not disclosed in
17 your affidavit, right?

18 A. Why -- yes.

19 175. Q. Okay, thank you. I don't have any
20 further questions. Thanks very much.

21 MS. MULLEN: Can we take a 10-minute break
22 and come back at 2:55?

23 THE WITNESS: Sure.

24 MR. CAPERN: That's fine. Ms. Houle, you
25 are -- while -- you're not permitted to

M. J. Houle (Re-Ex.) - 55

1 speak with anybody during this interlude.

2 THE WITNESS: Okay, great, thank you.

3
4 --- A BRIEF RECESS

5
6 RE-EXAMINATION BY MS. MULLEN:

7 176. Q. All right, Ms. Houle, one question I
8 think for you. You talked a lot in the earlier part
9 of your evidence about security of tenure. Can you
10 explain why security of tenure is so important in
11 addressing homelessness?

12 A. Security of tenure means that people
13 have the same rights as renters, as everyone else in
14 every province. You know, one could argue whether or
15 not the tenancy rights in Canada in particular
16 provinces are better than others. But it's ensuring
17 that everyone has the same tenancy rights.

18 And that includes security of tenure in that
19 the process for eviction is the same for everyone
20 regardless of -- you know, so it's not discriminatory.

21 So that part is very important because the
22 home is the beginning of everything in terms of the
23 hierarchy of needs. And where they can have access to
24 a job and economic and cultural and social
25 opportunities. Without that, without a home, an

M. J. Houle (Re-Ex.) - 56

1 adequate home that meets their needs, it's -- it's --
2 it's virtually impossible for anyone to be able to
3 enjoy all of the rest of their human rights.

4 177. Q. All right, thank you. Those are all of
5 my questions.

6 MR. CAPERN: Okay, are we done then or
7 Mercedes did you ---

8 MS. PEREZ: Yeah, thank you, I am not going
9 to have any questions for Ms. Houle.

10 MR. CAPERN: Great. Good. Thank you very
11 much, Ms. Houle. A pleasure to meet you and
12 thank you for your work as the Federal
13 Housing Advocate.

14 THE WITNESS: Well, thank you very much.
15 Take good care, everyone.

16
17
18
19
20
21 --- ADJOURNED
22
23
24
25

- 57

THIS IS TO CERTIFY that the foregoing
is a true and accurate transcription of
my recordings and notes, to the best of
my skill and ability.



Barbara A. Pollard
Certified Court Reporter

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1990.

EXHIBIT “A”



Canadian
human rights
commission

Commission
canadienne des
droits de la personne

The Federal Housing Advocate

On this page:

- [The Advocate's role](#)
- [The Advocate's work](#)

The Federal Housing Advocate is an independent, nonpartisan watchdog, empowered to drive meaningful action to address inadequate housing and homelessness in Canada.

The Office of the Federal Housing Advocate, housed at the Canadian Human Rights Commission, supports the Advocate in carrying out their mandate.

Together, we promote and protect the human right to housing in Canada, including the progressive realization of the right to adequate housing.

The Advocate's role

The goal of the Advocate's work is to drive change on key systemic housing issues and advance the right to housing for all in Canada.

The Advocate is responsible for making recommendations to improve Canada's housing laws, policies and programs so that they enable people and families in Canada to have access to adequate, affordable and safe housing that meets their needs. The Advocate monitors the human right to adequate housing and Canada's national housing strategy.

The Advocate sits as an ex-officio member of the National Housing Council.

The Advocate also promotes a meaningful voice and role for individuals and communities affected by inadequate housing and homelessness. The Advocate's mandate is guided by a human rights-based approach, which values human dignity, participation, accountability, inclusion, non-discrimination, transparency, access to justice, and respect for human rights laws and obligations.

The Advocate's work

Driving change on systemic housing issues: The Federal Housing Advocate holds governments to account on their obligations to address housing need and homelessness across Canada. The Advocate makes recommendations to the government and other decision makers to improve Canada's housing laws, policies and programs.

Receiving submissions: The Advocate receives submissions from people or organizations across Canada on the systemic housing issues they are facing and makes recommendations on how to address them.

If you have experienced homelessness or had problems with your housing, you can [make a submission to the Advocate](https://www.chrc-ccdp.gc.ca/find-help/make-submission-federal-housing-advocate) (<https://www.chrc-ccdp.gc.ca/find-help/make-submission-federal-housing-advocate>). Sharing your experience will help the Advocate drive change and advance the right to housing for all in Canada.

Amplifying people's voices: The Advocate raises awareness on the most common and critical housing issues that people across Canada are facing. The Advocate plays a key role in amplifying the voices of those impacted by housing need and homelessness. Public engagement and input are critical to informing the work of the Advocate.

The Advocate is committed to a broad and ongoing engagement process with Indigenous peoples, people with lived experience of housing need and homelessness, civil society organizations, governments and experts across Canada.

Making recommendations on systemic housing issues: The Advocate may review a systemic housing issue, or request that the National Housing Council establish a Review panel to hold a hearing to review any systemic housing issue within federal jurisdiction.

The findings and recommendations brought forward by the Advocate or the Review Panel will help to identify solutions and necessary reforms to laws, policies and programs that affect housing and homelessness in Canada. This mechanism is a way to target the most critical systemic issues, as well as urge the government to take action on them. It also gives members of affected communities an opportunity to be included and participate in the process, and to contribute to housing policy and solutions.

Monitoring the right to housing: The Federal Housing Advocate is responsible for monitoring and reporting on the right to housing and systemic housing issues in Canada. This work includes stakeholder engagement, analyzing and conducting research, initiating studies, and consulting on systemic housing issues. The Advocate can initiate studies as they see fit into economic, institutional, or industry conditions in federal jurisdiction that affect the housing system.

The Advocate is also responsible for monitoring the progressive realization of the right to adequate housing in Canada, and assessing the impacts of legislation, policies and programs that affect housing. The Advocate monitors the progress, goals and timelines of the government's national housing strategy, and is directed to pay close attention to the impact of housing policies and programs on groups and people in greatest housing need or experiencing homelessness.

Reporting to Parliament: The Advocate is responsible for reporting annually to the Minister responsible for housing. The Annual Report will include a summary of the Office's activities and contain recommendations to address systemic housing issues. The Advocate can also submit recommendations at any time to the Minister, who must table the Advocate's report in both houses of Parliament and respond within 120 days.

Related links

Biography of Marie-Josée Houle, Federal Housing Advocate
(<https://www.chrc-ccdp.gc.ca/about-our-people>).

Video: Housing submission tool – your voice matters!
(<https://www.youtube.com/watch?v=8hLqKeU4Kis&p%3Blist=PL1YTVzZgEvo7mzacd1wmWRQaPa23EngRx&p%3Bindex=4>).

Make a submission to the Federal Housing Advocate
(<https://www.chrc-ccdp.gc.ca/find-help/make-submission-federal-housing-advocate>).

EXHIBIT “B”



[Canada.ca](#) › [Housing, Infrastructure and Communities Canada](#)

Biography - Marie-Josée Houle

From: [Housing, Infrastructure and Communities Canada](#)

Backgrounder



Ms. Houle was appointed as Canada's first Federal Housing Advocate in 2022, marking a new chapter in a career defined by her work in the affordable housing and homelessness sector. Ms. Houle is an experienced leader who is recognized for her community activism, expertise in human rights, and extensive knowledge of the housing and homelessness system.

Prior to her appointment as Canada's first Federal Housing Advocate, Ms. Houle held a number of roles that inform her broad experience, including frontline work in housing coops, consulting and project management for affordable housing development, by-law review, housing-related research projects, developing educational programs for housing co-ops and non-profits, and senior leadership roles.

She has been actively involved in advocacy work at a national, provincial and community level. She has advocated for tenant rights and the non-profit housing sector at all three levels of government. She has worked with diverse partners in the sector to foster innovation and entrepreneurship, improve efficiencies, influence key opinion leaders, leverage strategic partnerships, and address gaps and human rights violations related to housing and access to housing. Building a sense of community among diverse partners is particularly important to her.

Search for related information by keyword: [Transport](#) | [Housing](#),
[Infrastructure and Communities Canada](#) | [Ontario](#) | [Infrastructure](#) |
[general public](#) | [government](#) | [media](#) | [backgrounders](#)

Date modified: 2025-01-27

EXHIBIT “C”

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Houle: Yes, you should be angry about homeless encampments

People are living in tents on the street because they have nowhere else safe to go. By making homelessness visible, encampments expose our failure to act.

By [Marie-Josée Houle](#)

Published Feb 26, 2024 Last updated Mar 05, 2024 4 minute read [57 Comments](#)



A homeless encampment beside St. Stephen-In-The-Fields Anglican Church in Toronto is shown in November, 2023. PHOTO BY JACK BOLAND /Toronto Sun

People in Canada have every right to be angry about the tent encampments popping up across this country.

But no one should be angry at the people living in them.

As federal Housing Minister Sean Fraser said recently, responding to my new report on encampments, “I think it’s a generational moral failure that there are people who are sleeping without a roof over their head in a country as wealthy as Canada.”

STORY CONTINUES BELOW

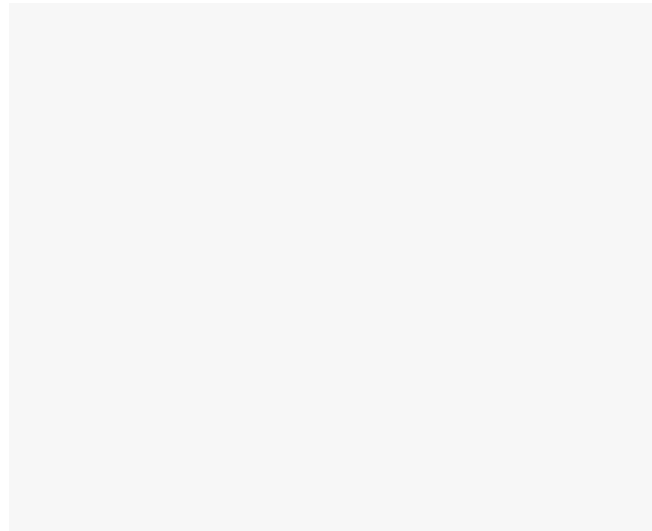
People experiencing homelessness are living in tents on the street because they have nowhere else safe to go. They are exposed to the cold, to violence, and to aggression from the state. Encampments expose our failure to act on homelessness by making it visible.

In turn, many of us are blaming encampment residents — who are bearing the brunt of decades of Canada’s housing crisis — for not having anywhere to live.

Those who think the solution is to break up encampments want to push these problems out of sight. Where they can ignore the uncomfortable reality of human suffering and of our failure to act. Others think they can simply impose solutions without actually consulting anyone who has experienced homelessness. These top-down approaches do not work.

In developing the new report, I met with encampment residents across the country. I wanted to hear directly from them about their lives, their living situations, and what they need. People told me stories of how they were failed, again and again, when they asked for help.

STORY CONTINUES BELOW



I met a man in Victoria who suffered a workplace accident that ultimately ended with him living in an encampment. He had worked and paid taxes all his life. He lost his

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wife to cancer, and after the accident, the system failed to protect him at work, then protect him from poverty, then protect him from homelessness.

Read More

Tent City Nation: Are Canada's homeless encampments here to stay?



Tent City Nation: Mapping stories of homeless encampments across Canada



Living in the encampment, he desperately did not want people in the community nearby to fear him, and he desperately did not want to be evicted from his campsite, where he had access to washrooms, food and some community support. He was terrified because he was older. At the end of the conversation, he started to cry because he did not want to die in this camp. This is not where he wanted to end his years.

I heard people explain how they were forced from encampments and told to move along, their items of survival taken away: tents, sleeping bags, warm clothes. I heard heart-

452
3



Jack
Logan, a

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5



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asks how do

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irreplaceable photos of family and friends —
even the ashes of their loved one.

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People said they felt unsafe in emergency shelters, where theft, crowding and violence are common. Sleeping in a shelter meant no privacy or autonomy, and it meant being separated from their friends, families, and partners. Every person I spoke to said encampments were the best choice out of a bunch of bad ones.

Canada prides itself on treating people with dignity and respect. This must include people living in encampments. Homelessness is not new. But a human rights approach to it is. That's what I am calling for.

What we need to do is listen to the people in encampments to make sure we're meeting

their needs and finding them permanent, adequate housing. To respect their dignity by providing them with basic needs such as water to drink, food to eat, health care. To give people the security of knowing they will not be thrown out of their encampment, where they have found safety and community, at a moment's notice. To involve them in making decisions and finding solutions. This is how we will make a lasting difference to solve homelessness.

STORY CONTINUES BELOW

Encampments are not a solution. But whether we like it or not, encampments exist. So, what is the solution? Permanent, adequate housing. Every person I spoke to said they would like to move into a permanent home.

Canada has the capacity to solve this national crisis. What we need is an urgent, national response. What we need is co-ordination,

new resources and political will. We need everyone at the table — the federal government, provinces, territories and Indigenous governments — and most importantly, people with lived experience of homelessness.

We also need to end this generational moral failure by investing in our housing system and addressing the root causes of homelessness.

We have called on the federal government to convene a National Encampments Response Plan by Aug. 31, 2024.

For people living in encampments, every day is a matter of life and death.

So yes, you should be angry about encampments. But you should be angry that in a country like Canada, we have not done everything we can to make sure everyone has a safe, adequate place to call home. The time for action is now.

Marie-Josée Houle is Canada's Federal Housing Advocate, a non-partisan, independent human rights watchdog for housing and homelessness that provides advice and recommendations to the federal minister responsible for housing.

Spencer stays warm with a friend's dog in his camp along the Bow River in Calgary on Feb. 1, 2023. PHOTO BY GAVIN YOUNG /Postmedia

Postmedia will take a closer look at the troubling issues of tent cities in an in-depth investigation. Join us 2 p.m. ET March 12 for a special edition of Conversations Live with Stuart McNish, where we will take on this critical matter with a panel of people facing this issue in their work every day.
<https://www.conversationslive.ca>



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EXHIBIT “D”



Office of the
Federal Housing
Advocate

Bureau du
défenseur fédéral
du logement

July 16, 2025

BY EMAIL

Ms. Karen Redman
Regional Chair
Region of Waterloo
Regional Chair's Office
1st Floor, 150 Frederick Street
Kitchener, Ontario N2G 4J3

Dear Regional Chair Redman and Members of Regional Council:

I write today to express my concerns about the plan to evict the homeless encampment to build a new transit hub at 100 Victoria Street North, Kitchener by December 1, 2025. As the Federal Housing Advocate, my mandate to review systemic housing issues across the country was established by the National Housing Strategy Act (2019), which also reaffirmed housing as a fundamental human right in Canada.

I appreciate that municipalities like Region of Waterloo are on the frontlines of the homelessness crisis and responses to encampments but do not necessarily have the powers and financial resources to address all the systemic factors contributing to homelessness. Nevertheless, municipal governments – just like all other orders of government – have obligations to respect, protect, and fulfill human rights and to adopt a human rights-based approach to encampments.

In February 2024, I released the final report and recommendations following a year-long review of homeless encampments across the country. My report, [Upholding dignity and human rights: The Federal Housing Advocate's review of homeless encampments](#) included recommendations aimed at all levels of government to fulfill their human rights obligations. You can consult the [specific recommendations for municipalities](#) online. I concluded that forced evictions and enforcement approaches do not address the underlying systemic issues and put people at risk of even greater harms. I also called on municipalities to develop human rights-based policies related to encampments and to ensure that their responses to encampments prioritize upholding the human rights of encampment residents.

.../2

Human rights-based approaches to encampments

A human rights-based approach calls on municipalities to ensure that they are doing all that they can to protect people living in encampments from harm and violations of their human rights. It requires:

- Meaningfully engaging with people living in encampments and those who support them on an ongoing basis.
- Finding solutions that offer adequate housing and the supports people may need.

The use of a human rights-based approach, which includes people living in encampments in the design and delivery of durable solutions, is a win-win for a community. This approach not only improves the quality of life and health of people living in encampments, but it also helps to find long-term solutions that address people's real needs. Furthermore, meaningful engagement that is truly rooted in human rights principles provides more effective and sustainable rights-based solutions than time-consuming court proceedings.

Earlier this month, my Office published [A Guide to Meaningful Engagement and Integrating a Human Rights-Based Approach into Encampment Responses](#). This resource has been developed to provide additional guidance to municipalities and other levels of government on how to put into practice a human rights-based approach when it comes to encampment responses. Recognizing that forced evictions of encampments are a violation of human rights and that they are inherently harmful, this guide encourages municipalities to explore alternatives rooted in human rights principles and to value meaningful engagement of people living in encampments.

Permanent, adequate housing

People should be provided with a variety of housing options and locations that meet their needs, are accessible and are adapted to their personal situation. It is important to allow people to make choices and take control of their lives.

During my review, I heard repeatedly that spaces in an emergency shelter or other temporary accommodation are not necessarily a better solution for someone living in an encampment. Spaces in emergency shelters do not offer security of tenure and may be inaccessible or unsafe for many people. They do not always consider the cultural needs of Indigenous people, the needs of people with disabilities and can be unsafe for women and members of the 2SLGBTQQIA+ community.

.../3

Emergency shelters should not be seen as a mandatory step before someone can access permanent and adequate housing. People have the capacity to transition directly to permanent housing without going to a shelter first. This underlines the need to assess the individual and collective needs of people living in encampments and avoid putting in place obstacles to their social integration and ability to access adequate housing.

It is also critical to ensure that the transitional and supportive housing that is offered is compliant with human rights principles. Residents in these buildings should be afforded the same rights as tenants as per the landlord and tenant regulations in force in the province.

Continued engagement and solutions in Waterloo Region

I understand that the Region of Waterloo recently passed a Site-Specific By-law, Bylaw 25-021, related to the encampment that requires it to be cleared by December 1, 2025, and that consideration of this By-law is currently before the courts. I am concerned that there was no consultation with the encampment residents in developing and passing Bylaw 25-021, or in developing its plan to clear the encampment in the coming months.

I understand that the Region has a team dedicated to working with residents of the encampment. However, the fact that there is a pre-determined outcome (i.e., clearing out the encampment by November 30, 2025) undermines trust and the possibilities for meaningful engagement. Consultations are a mere formality when decisions have already been made, making it clear to encampment residents that their input is not important. It is not enough to claim to adopt a human rights-based approach; it is essential to take actions that lead to rights being protected and a real improvement in the lives of people living in encampments. This must not be limited to efforts to ensure access to adequate housing but must also include immediate measures to respect human dignity and protect lives until adequate long-term housing solutions are available in sufficient quantities and adapted to meet people's needs.

Building and maintaining the trust of people living in encampments is an essential component of a human rights-based approach. These relationships must demonstrate transparency, accountability and integrity. Although the Region on the one hand has a team of support workers to assist encampment residents in accessing housing, on the other hand, the Region is bringing harmful litigation against the residents of the encampment. It is impossible to build trust in this context. The process the Region of Waterloo has undertaken undermines the authenticity required to bring about positive change through a genuine engagement process.

.../4

In addition, I find it troubling that Bylaw 25-021 requires the Region to only engage with encampment residents that were living at the encampment prior to the Bylaw being passed and says nothing about the need to engage with any people who entered the encampment after the Bylaw was enacted.

Before proposing solutions, it is important for municipalities to take time to learn about and understand the experiences of people living in encampments and to consider that people choose to live in encampments because housing and emergency shelters are unavailable, inaccessible or do not provide the safety and security they need.

Durable solutions will only come about when the responses address the real issues and needs identified by the people living in encampments. This cannot be done without a commitment to meaningful engagement. Meaningful engagement takes time and requires investment of resources. However, when such engagement processes are implemented authentically with genuine intention to bring about positive change, there is a much greater chance of identifying concrete solutions that respect the rights of people living in encampments – instead of band-aid fixes that waste time and taxpayer money, and further harm the people affected.

Indigenous rights

I also feel compelled to highlight that, as a direct result of colonization and displacement, Indigenous Peoples are acutely over-represented in Canada's population of people experiencing homelessness and living in encampments. Encampment responses must recognize and respect the rights found in the United Nations Declaration on the Right of Indigenous Peoples. Métis, Inuit, and First Nations governments must be supported in managing and implementing housing solutions that reflect self-governance and community-specific needs.

Urban Indigenous populations face distinct housing challenges, including inadequate access to culturally appropriate services as well as systemic barriers to affordable housing. Local Indigenous governments and leadership should be consulted in the design, delivery and monitoring of encampment responses. It is also critically important to ensure that the meaningful engagement with Indigenous people living in encampments is Indigenous-led to promote genuine dialogue guided by mutual respect, good faith and the sincere desire to reach agreement.

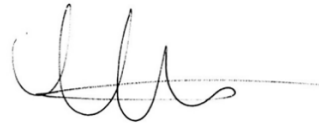
In closing, when a human rights-based approach to encampments is put in place, it will build trust, encourage participation and engagement. It can also empower people to contribute to solutions that will provide appropriate, accessible and adequate long-term housing solutions and services as well as measures to address their immediate needs.

.../5

As you continue to plan for the construction of the new transit hub, I urge you to review my reports and recommendations so that you are fully aware of your human rights obligations and are able to ensure that your actions respect the human rights of people experiencing homelessness in the Region of Waterloo.

I would welcome an opportunity to engage in further dialogue with you to explore how my office and the findings in my recommendations can contribute to a human rights-based response to encampments in the Region of Waterloo.

Yours sincerely,



Marie-Josée Houle
Federal Housing Advocate

Enclosures: Upholding dignity and human rights: The Federal Housing Advocate's review of homeless encampments
Guide to Meaningful Engagement and Integrating a Human Rights-Based Approach into Encampment Responses

c.c.: Jan Liggett, City of Cambridge
Doug Craig, City of Cambridge
Pam Wolf, City of Cambridge
Berry Vrbanovic, City of Kitchener
Colleen James, City of Kitchener
Michael Harris, City of Kitchener
Matt Rodrigues, City of Kitchener
Dorothy McCabe, City of Waterloo
Jim Erb, City of Waterloo
Chantal Huinink, City of Waterloo
Sue Foxton, Township of North Dumfries
Joe Nowak, Township of Wellesley
Natasha Salonen, Township of Wilmot
Sandy Shantz, Township of Woolwich

TAB 20

Court File No. CV-25-00000750-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

THE REGIONAL MUNICIPALITY OF WATERLOO

Applicant

and

PERSONS UNKNOWN AND TO BE ASCERTAINED

Respondents

APPLICATION UNDER Rule 14.05 of the *Rules of Civil Procedure*

This is the Cross-Examination of **Dr. Kaitlin Schwan** on her affidavit dated August 15, 2025, taken via Zoom videoconference on consent of the parties on January 9, 2026.

APPEARANCES:

GORDON CAPERN, Mr.	Counsel for the Applicant
GRETA HOAKEN, Ms.	
JOANNA MULLEN, Ms.	Counsel for the Respondents
SHANNON DOWN, Ms.	
CHARLOTTE CAHILL, Ms.	Student-at-Law
KAREN STEWARD, Ms.	Amicus Curiae

(i)

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JANUARY 9, 2026

DR. KAITLIN SCHWAN, AFFIRMED

CROSS-EXAMINATION BY MR. CAPERN:

1. Q. Dr. Schwan, good morning. Thank you for joining us today.

A. Thank you for having me.

2. Q. A couple of rules of engagement for the examination which apply both to you and to me. One is that as I described off the record, Ms. Pollard is our court reporter and in order for the record to be as intelligible as possible, it's going to be important for me to ensure that I give you enough latitude to answer your question without speaking -- answer my questions without speaking over you.

And conversely, I would be grateful if you would afford me the same courtesy which is to allow me to finish my question before you begin your answer. If that's okay.

A. Absolutely.

3. Q. That way we'll avoid Ms. Pollard becoming cross with either of us, I think, as we go this morning. And I hope to have you out of here in about 15 or 20 minutes subject to any questions for you that my friends have. So you can get on with what

K. Schwan (Cr.-Ex.) - 4

1 I hope is a beautiful sunny day in southern
2 California. First of all, thank you for your
3 affidavit and the expert report that you've delivered
4 in this proceeding which I've read carefully.

5 I have a few questions for you about that
6 affidavit. And I'd like to begin if I can with
7 Exhibit C to your affidavit which I think is -- you
8 refer to as the "Project Willow Report." You're
9 familiar with that?

10 A. I am.

11 4. Q. I don't think I need to put it up on
12 screen for the purposes of these questions but if you
13 would like to see it, please just yell and we'll make
14 sure it gets on screen for you immediately through the
15 magic of Ms. Hoaken.

16 So a few questions for you about that. I am
17 correct, Dr. Schwan, that you are not one of the
18 authors of that report, is that correct?

19 A. That's correct, I am not one of the
20 authors.

21 5. Q. Thank you and it's correct that you did
22 not participate in its preparation, is that correct?

23 A. That is correct.

24 6. Q. And I have it from Paragraph 33 of your
25 affidavit that, at least up to the date that you swore

K. Schwan (Cr.-Ex.) - 5

1 your affidavit, you had not visited the encampment
2 that's in issue in this case, is that correct?

3 A. That's correct, yes. My affidavit
4 speaks to broader patterns of experiences within
5 encampments across Ontario, across Canada and in North
6 America more broadly. But doesn't speak to this
7 specific encampment.

8 7. Q. Right, that's what I had understood
9 from your affidavit but thank you for confirming that.
10 And I am correct that that remains the case up today?
11 In other words, you have not visited this particular
12 encampment up until today as I am cross-examining you,
13 is that correct?

14 A. That's correct.

15 8. Q. Thank you. And it's correct,
16 therefore, I think that it's fair to say that you have
17 no first-hand knowledge of the current demographics of
18 that encampment?

19 A. I don't have first-hand knowledge of
20 those demographics. I have done research and engaged
21 with encampments across North America and have seen
22 consistent patterns around demographics.

23 9. Q. Right, I think what I am just going to
24 ask you to do, Dr. Schwan, if that's okay, is if we
25 can stick to the questions that I've -- like I read

K. Schwan (Cr.-Ex.) - 6

1 your affidavit carefully and I thank you for that.
2 And I gathered from that that you have done extensive
3 review and understands. You can take it that I've
4 read your affidavit carefully and I've understood it
5 as best as I am able. Thank you.

6 So just to go back to my next question then
7 which is, it's correct to say then as well that you
8 have no first-hand knowledge of the individual
9 experiences of any resident of this particular
10 encampment. Is that fair to say?

11 A. It is.

12 10. Q. Thank you. It's correct to say that
13 you have not reviewed reports of violence at this
14 particular encampment, is that correct?

15 A. That's correct.

16 11. Q. And that includes, if I can call it,
17 intra-resident violence, at this particular
18 encampment, is that a fair observation?

19 A. Yes.

20 12. Q. And it's fair to say that you are not
21 at any place to comment specifically on any -- on the
22 prevalence of violence at this particular encampment,
23 is that fair to say?

24 A. That's correct. I can speak to broader
25 patterns of violence experienced by encampment

K. Schwan (Cr.-Ex.) - 7

1 residents. But not to this particular encampment.

2 13. Q. Thank you and I take it as well that
3 you have no first-hand knowledge of how many violent
4 incidents have occurred at the encampment at 100
5 Victoria in the Region of Waterloo, is that fair?

6 A. That is fair.

7 14. Q. All right. It's fair to say that you
8 have not undertaken any quantitative work comparing
9 rates of violence in specific Waterloo shelters versus
10 the encampment at 100 Victoria. Is that fair to say?

11 A. Yes, it is.

12 15. Q. Thank you. And you haven't taken --
13 conducted any research which is specific to shelter
14 availability in the Waterloo Region, is that fair to
15 say?

16 A. Yes.

17 16. Q. I'd like to take you to the, if I can
18 call it the "Tape Measure Example" that you gave in
19 your affidavit. Are you familiar with what I am
20 talking about there?

21 A. I am.

22 17. Q. Thank you. And that's, just for the
23 record, that's where you've pointed out that -- I
24 think the example you gave was a woman who was living
25 in a tent who took the opportunity to place a tape

K. Schwan (Cr.-Ex.) - 8

1 measure outside to, in effect, if I've got your
2 evidence right -- the point of her doing that was to
3 elevate the chances that she would be alerted if there
4 was someone who was trying to enter her tent without
5 her consent. Is that -- have I got it about right?

6 A. Yes. That's correct.

7 18. Q. Thank you. And part of that, I take
8 it, is that your observation is that also increased
9 the resident's ability to alert others in the
10 encampment to the fact that someone was trying to
11 enter her tent. Is that -- have I got that right?

12 A. That's correct, yes.

13 19. Q. And then I guess the extension of that
14 was that would also allow her to seek assistance to
15 deal with any person seeking to enter her enclosure
16 without consent?

17 A. Correct.

18 20. Q. And you'll agree with me, Dr. Schwan, I
19 hope, that being able to control access to one's
20 space, including who comes in or out of it, is an
21 element of maintaining safety for an encampment
22 resident?

23 A. Yes, yes. And that encampment
24 residents go to extensive measures to try to secure
25 their safety through the means that they have

K. Schwan (Cr.-Ex.) - 9

1 available to them.

2 21. Q. And I understand that. And I assume
3 that when we say that includes any women that are
4 living in an encampment, correct?

5 A. Correct.

6 22. Q. And also any gender-diverse people that
7 are living in an encampment?

8 A. Correct.

9 23. Q. Thank you. And you would agree with me
10 that being able to control access to one's space is an
11 important element of safety, generally. Is that fair
12 to say?

13 A. Yes. I would agree with that.

14 24. Q. Thank you. And would you agree with me
15 that having a door that can be locked might be one way
16 to improve safety?

17 A. Yes, I would agree with that.

18 25. Q. And that a locked door, for example,
19 would mitigate the risk of an unwelcome entry into
20 your space. Is that a fair observation?

21 A. Yes, in general for folks experiencing
22 homelessness when gender-diverse people in particular
23 who are experiencing intimate partner violence, in
24 some cases, that's occurring behind closed doors or
25 exploitation is occurring behind closed doors.

K. Schwan (Cr.-Ex.) - 10

1 But it remains the case that being able to
2 close a door is critical to safety for all people.

3 26. Q. Okay. And thank you, that's helpful.
4 And then just to go to a second thing that people
5 living in encampments need to deal with is going to
6 the washroom, for example. That having one's own
7 washroom could also be part of an improved safety
8 environment for a person living at an encampment. Is
9 that fair?

10 A. Yes, access to water and sanitation and
11 hygiene facilities are critical to the right to
12 adequate housing and safety.

13 27. Q. And having access to one's own washroom
14 would be part of that, in your view, is that fair?

15 A. Yes, that's fair.

16 28. Q. Good. And a part -- if I can just do a
17 comparison, that then avoids -- in the case of an
18 encampment resident, if they had their own washroom,
19 that would avoid the need for them to leave their
20 enclosure to go to the washroom. Is that a fair
21 observation?

22 A. Correct, yeah.

23 29. Q. Thank you. I want to ask you just a
24 few questions about your observations about
25 encampments generally. One of the benefits I think --

K. Schwan (Cr.-Ex.) - 11

1 and if I'm paraphrasing this unfairly or
2 inappropriately, just please correct me.

3 But one of the benefits I took from your
4 affidavit of an encampment, is that there isn't
5 typically a waitlist to get into one, is that a fair
6 comment? Comparing it, for example, to a shelter
7 where there might be capacity restrictions, just to
8 bring home the question more ---

9 A. Mm-hmm.

10 30. Q. More helpfully.

11 A. I -- yeah, I think one of the benefits
12 is there's not a waitlist. And as you saw in my
13 research, in many cases folks experience a range of
14 barriers for accessing shelters related to disability
15 or substance use, for example.

16 And so in some cases often don't have an
17 opportunity to go to a shelter and then are forced to
18 reside in an encampment for their own survival and
19 protection.

20 31. Q. Right. And I think I had from your
21 affidavit that one of the concerns that you raise, is
22 that many people who end up in encampments are people
23 who are turned away from shelters because of capacity
24 issues at those shelters. I think it's just a -- if I
25 got that right?

K. Schwan (Cr.-Ex.) - 12

1 A. That's correct.

2 32. Q. And one of the other things I think
3 that you say -- again, correct me if my paraphrasing
4 is unfair or inappropriate -- but one of the other
5 things I think you say is that encampments generally
6 are not subject to the imposition of conditions that
7 might apply -- entry conditions that might apply at
8 shelters. Is that a fair observation?

9 A. Yes. That's correct.

10 33. Q. Thank you. And that means -- and the
11 extension of that is, I take it that people who show
12 up at an encampment can, provided there is space,
13 pitch a tent or otherwise take shelter there?

14 A. Correct.

15 34. Q. And that includes, for example, couples
16 who might show up at an encampment, correct?

17 A. Yes.

18 35. Q. And that includes couples who may
19 indeed be in an intimate relationship with one
20 another, is that fair?

21 A. Yes. Correct.

22 36. Q. And among that group, you'll agree with
23 me that that group would include couples where there
24 has been intimate partner violence. Is that fair?

25 A. Yes, it could.

K. Schwan (Cr.-Ex.) - 13

1 37. Q. And for the person who has been subject
2 to intimate partner violence, an aspect of escaping
3 that violence is a physical separation from their
4 partner, do you agree with that?

5 A. Yes.

6 38. Q. And so being able to access housing
7 where their partner can be excluded, can be an
8 important component of getting away from that
9 violence. Is that fair?

10 A. Correct, yes.

11 39. Q. And if I can call it this, a women's-
12 only shelter might assist in providing that
13 separation?

14 A. Yes, in some cases, yes.

15 40. Q. Thank you. And so sometimes, you'll
16 agree with me that it is a good thing for couples --
17 you know, we'll focus on couples where there has been
18 a history of intimate partner violence. It could be a
19 good thing for those couples to be separated in
20 shelters where -- in those circumstances, you'll agree
21 with that?

22 A. I would agree with it generally. I
23 would say that my experience in the research is such
24 that women and gender-diverse people experiencing
25 intimate partner violence have to choose amongst a

K. Schwan (Cr.-Ex.) - 14

1 range of unsafe options, including remaining in an
2 intimate partner violent situation or going to a
3 shelter where they may experience violence from other
4 residents. Or may experience discrimination or maybe
5 separated from their pet.

6 So in -- in an ideal world, that separation
7 would be possible. In my experience, it's been that
8 women are often choosing between different kinds of
9 violence or exclusion or discrimination.

10 41. Q. I think the point you made in your
11 affidavit was that they were frequently put in a place
12 where they were choosing the least bad option.

13 A. Yes, correct.

14 42. Q. Okay, thank you. And just to touch on
15 that, for example, to the extent that a municipality
16 that is seeking to help people who are in an
17 encampment find housing to the extent, for example,
18 that the municipality assists them by finding housing
19 that can accommodate a pet if they had one, that would
20 be something you would view as a positive thing, is
21 that fair?

22 A. Yes, housing that is adequate and
23 appropriate and safe for the individual as they define
24 it for themselves is critical to exiting a situation
25 such as intimate partner violence in resolving

K. Schwan (Cr.-Ex.) - 15

1 homelessness.

2 43. Q. Yeah, understood. Thank you very much.
3 And is it fair to say that in a shelter that --
4 particularly in a women's-only shelter, that staff
5 might be trained to watch out for abusive and coercive
6 patterns of behaviour and to intervene where
7 necessary. Is that fair?

8 A. I would say my experience is that many
9 shelters have training in those areas, not all of them
10 -- and not all staff may be trained -- in order to
11 identify signs of abuse or to intervene.

12 But in general, I would say that is true.

13 44. Q. Okay. Thank you. And you'll agree
14 with me that -- and I wasn't suggesting that all
15 shelters, but certainly some of the shelters that that
16 would be an issue in which staff would retain -- would
17 receive training, right?

18 A. Correct.

19 45. Q. And you'll agree with me, I take it,
20 that the flipside is that -- of that is typically
21 people who are residents of encampments do not receive
22 that type of training, is that fair?

23 A. Correct.

24 46. Q. Okay, thank you. I don't have any more
25 questions, Dr. Schwan. And I wanted to say thank you

K. Schwan (Re-Ex.) - 16

1 for your time today.

2 A. Thank you very much.

3 MS. DOWN: I just have I think one or two in
4 redirect. Can you hear me okay?

5 THE WITNESS: I can, thank you.

6 MS. DOWN: Okay.

7
8 RE-EXAMINATION BY MS. DOWN:

9 47. Q. So Mr. Capern's questions seem to be
10 comparing the situation of a woman or a gender-diverse
11 individual or a person who is part of a couple, who
12 are in an encampment, and their safety versus what
13 their relative safety or situation would be if they
14 were in a woman's shelter or a gender-specific
15 shelter.

16 And can you tell me, based on your research,
17 what is your experience of what happens if that isn't
18 an option? Like what happens if the shelters in that
19 area are full and there are no housing options or
20 aren't that supportive or appropriate housing?

21 A. Yeah, absolutely. So if there aren't
22 accessible shelter or housing options available for
23 women or gender-diverse folks, regardless of whether
24 they're in an intimate partner violent situation or
25 not, what we find women or gender-diverse people doing

K. Schwan (Re-Ex.) - 17

1 is at first relying on as many kind of social supports
2 or community members that can to couch-surf. And in
3 some cases, relying on trading sex for housing, doing
4 labour for housing.

5 One of the things that I've documented
6 extensively in my research is that hidden homelessness
7 is very common among women and gender-diverse people
8 when they first fall into homelessness. Because
9 they're trying to prevent being alone out on the
10 streets because of the high risk of violence and
11 harassment that they experience.

12 So if there weren't a shelter bed available,
13 they would likely first try to rely on those informal
14 supports, couch-surfing and then would become, what we
15 call, "experience unsheltered homelessness," be out on
16 the streets. And in -- use a variety of methods to
17 try to remain safe and survive.

18 So in some cases, people would be sleeping
19 in doorways, sleeping in hospitals, again, trading sex
20 for housing.

21 And I have met many women and gender-diverse
22 people that have amongst their constrained choices,
23 elected to reside in an encampment because it provides
24 an ability to protect each other, identify risks,
25 share resources and trying to survive the conditions

K. Schwan (Re-Ex.) - 18

1 outdoors.

2 48. Q. Okay, and so in a circumstance where an
3 encampment is being closed and there aren't shelter
4 options, there aren't housing options, what is your
5 experience or what does your research tell you about
6 what they relative -- how does the relative safety of
7 that person change when that encampment is closed?

8 A. Yeah, so I want to -- there's a number
9 of things that we consistently see when encampments
10 are closed, both in my research and research across
11 North America.

12 So the community or mutual aid that is
13 established, typically gets dispersed. So people's
14 access to food, their ability to care for a partner
15 who might have a disability, their ability to access
16 transportation or any kind of basic survival tasks,
17 often goes down. Because there is mutual care that is
18 happening in the encampment so people struggle to --
19 have an increased struggle to access food and water.

20 There's usually pretty significant safety
21 impacts for women and gender-diverse people.
22 Especially if there's repeated encampment closures
23 where women retreat into areas that are less visible
24 and they're more vulnerable to experiences of sexual
25 violence, physical violence.

K. Schwan (Re-Ex.) - 19

1 I met a woman in Toronto who the day after
2 her encampment had been closed, experienced a rape
3 that night because she was on her own. And so those
4 kinds of experiences are across encampments I engaged
5 with in North America are fairly typical.

6 So the ability to survive decreases --
7 increases in challenges to safety. And it's also the
8 case that we see a range of kind of health impacts,
9 depending on how the encampment closure goes.

10 I am happy to speak to those if helpful.

11 49. Q. Yeah, I think, you know, your answer
12 was very helpful. Can you also -- so Mr. Capern also
13 was asking you about the Project Willow site.

14 A. Mm-hmm.

15 50. Q. And the fact that your research, your
16 work is not specifically on the encampment that's in
17 the Waterloo Region at 100 Victoria Street. But is
18 there -- do you have any reason to think that the
19 findings of Project Willow are not -- are not in line
20 with sort of the work that you've done more broadly
21 across Ontario, across Canada. And that this
22 encampment is in any way different from other
23 encampments that you've looked at across the country
24 so that your body of work wouldn't apply?

25 MR. CAPERN: Well, hang on. I am going to

K. Schwan (Re-Ex.) - 20

1 object to -- that's a very long question,
2 first of all, Ms. Down. And so, the first
3 part of it is I think fine, although
4 encroaches into stuff that could easily have
5 been dealt within Dr. Schwan's affidavit,
6 that is, is Project Willow consistent with
7 -- is the findings in the Project Willow
8 report consistent with her overall findings?

9 And I think Dr. Schwan has already said
10 in her affidavit that she endorses it. But
11 I am content to let her answer the question
12 of whether -- I guess maybe the slightly
13 more specific question of whether or not the
14 report extends into, you know, something
15 that is more broadly consistent with her
16 research.

17 Dr. Schwan has already testified that
18 she has no first-hand information about
19 what's going on in the encampment here. And
20 so the second question, in my view, is
21 completely inappropriate and should not be
22 answered.

23 So I want to object to that and I am
24 content to let Dr. Schwan answer the first
25 question but not the second one.

K. Schwan (Re-Ex.) - 21

1 BY MS. DOWN:

2 51. Q. All right. Dr. Schwan, can you answer
3 my first question then regarding Project Willow?

4 A. Whether it's consistent with the
5 research findings more broadly?

6 52. Q. Yes.

7 A. Yes, yes. Absolutely, both
8 methodologically I found it to be a sound study and
9 the findings do mirror in many ways the largest survey
10 we have on women's homelessness in Canada, which I
11 led.

12 And is within my affidavit with respect to
13 experiences of violence, the demographics, a range of
14 -- on a range of criteria, it is a strong study, and
15 reflects the broader literature.

16 53. Q. Okay. That's great. Thank you very
17 much, those are my questions. I don't know if Amicus
18 has any questions in redirect?

19 MS. STEWARD: No. Thank you.

20 MR. CAPERN: Thank you very much Dr. Schwan
21 and very much appreciate your time and hope
22 you have a great weekend.

23 THE WITNESS: Thank you very much. I
24 appreciate that.

25 MS. DOWN: Thanks everyone.

K. Schwan (Re-Ex.) - 22

1 THE WITNESS: Thank you. Bye.

2 MR. CAPERN: Barb, do you need anything from
3 us or are you okay?

4 MADAM REPORTER: I just need the date of the
5 doctor's affidavit.

6 MR. CAPERN: That's a good question.

7 MS. HOAKEN: It's the 15th of August, 2025.

8 MS. DOWN: Thanks, Greta.

9 MADAM REPORTER: Thank you, Greta, and
10 that's all I need. Thank you so much.

11 MR. CAPERN: Thanks so much, have a great
12 weekend everybody.

13 MS. DOWN: Thanks everyone.

14 MS. HOAKEN: Bye.

15 MADAM REPORTER: Bye.

16
17
18
19 --- ADJOURNED
20
21
22
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- 23

THIS IS TO CERTIFY that the foregoing
is a true and accurate transcription of
my recordings and notes, to the best of
my skill and ability.



Barbara A. Pollard
Certified Court Reporter

Photostatic copies of this transcript are not
certified and have not been paid for unless they bear
the original signature of Barbara A. Pollard, C.C.R.,
and accordingly are in direct violation of Ontario
Regulation 587/91, Courts of Justice Act, January 1,
1990.

TAB 21

Court File No. CV-25-00000750-0000

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

THE REGIONAL MUNICIPALITY OF WATERLOO

Applicant

and

PERSONS UNKNOWN AND TO BE ASCERTAINED

Respondents

APPLICATION UNDER Rule 14.05 of the *Rules of Civil Procedure*

This is the Cross-Examination of **Mr. Aaron Moss** on his affidavit dated January 16, 2026, taken via Zoom videoconference on consent of the parties on February 13, 2026.

APPEARANCES:

ANDREW LOKAN, Mr. Counsel for the Applicant
GRETA HOAKEN, Ms.

ASHLEY SCHIUTEMA, Ms. Counsel for the Respondents
SHANNON DOWN, Ms.
JOANNA MULLEN, Ms.
CHARLOTTE CAHILL, Ms.

(i)

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A. Moss (Cr.-Ex.) - 3

FEBRUARY 13, 2026

MR. LOKAN: So just before the cross-examination starts, I'm just going to put a couple of corrections on the record to the affidavit as sworn on January 16th, 2026.

In paragraphs 31 and 32 there is a reference to the Sanguen -- that's S-A-N-G-U-E-N -- van no longer attending the encampment that is out of date. The Sanguen van is now attending weekly; I understand Wednesdays from 1:00 to 2:15 p.m.

And at paragraph 37 there is a reference to there being one existing resident who remains, that's within the meaning of the context someone who was there April 16, 2025. The updated number there is there are no remaining existing residents.

In paragraph 38 there is a reference to there being 10 to 12 current occupants. The updated number is there are 10 to 12 current occupants on any given day of whom approximately one to three stay overnight on any given night.

And in paragraph 39 there is a

A. Moss (Cr.-Ex.) - 4

1 reference to the region having placed 19
2 individuals who are not existing residents
3 as defined having been placed by the region.
4 That is now 22 individuals who have been
5 placed in alternative accommodation by the
6 region. So those are all the corrections.
7 MS. DOWN: Okay, great. So we'll get
8 started.

9
10 AARON MOSS, AFFIRMED

11 CROSS-EXAMINATION BY MS. DOWN:

12 1. Q. Good morning, Mr. Moss. My name is
13 Shannon Down. I'm one of the lawyers representing the
14 encampment residents. Before we get started, do you
15 want me to call you, "Mr. Moss" or "Aaron?"

16 A. Aaron is fine, yeah.

17 2. Q. Okay.

18 A. Mr. Moss is my dad.

19 3. Q. Okay, thanks, Aaron. Just before we
20 get into my substantive questions, I just want to
21 remind you of a couple of things. One, is it that you
22 can't communicate with your legal counsel or with
23 anyone else during the time that you're under cross-
24 examination. And that includes communicate by text
25 messages or email or any other method.

A. Moss (Cr.-Ex.) - 5

1 You can't have any other documents. Do you
2 have any other documents other than your affidavit
3 with you right now?

4 A. No, I've got nothing right now. I
5 turned my phones off and, you know.

6 4. Q. Okay. Do you have a copy of your
7 affidavit?

8 A. Up on my screen. I can ---

9 5. Q. Okay.

10 A. --- pull it up on my screen.

11 6. Q. Okay, that's fine. If there's
12 questions that you need to refer to, you have it
13 handy. And I am just going to just mention that we're
14 going to confine what we're talking about today to the
15 parts of your affidavit that weren't struck by the
16 court.

17 So there was a motion and Paragraphs 11 to
18 21 and then 33 to 36, have been struck from your
19 affidavit by the court. So we won't be referring to
20 any of those paragraphs or to the exhibits that
21 reference that. So all of the safety reports were
22 part of the exhibit that relates to those. So they're
23 not -- they're no longer part of your affidavit.

24 So I'll try to make sure that my questions
25 don't go there but also please make sure that your

A. Moss (Cr.-Ex.) - 6

1 answers don't drift into those materials.

2 I am going to start just by going through
3 some of your resume or your qualifications. And I am
4 going to ask Charlotte, could we screenshare the
5 LinkedIn profile for Mr. Moss?

6
7 --- SCREENSHARE

8 7. Q. Okay, so I am just going to confirm.
9 So you've been with the Region since March of 2024 as
10 the Director of -- is it Fleet and Fleet Facilities?

11 A. Yeah. Facilities and Fleet.

12 8. Q. Okay, and looks like before that, you
13 were in a similar role at the City of Brampton?

14 A. Yes. That's correct.

15 9. Q. Okay, and you were there for six years.
16 And then there's a teaching position; was that a part-
17 time position or a full-time position?

18 A. No, that was a part-time position I did
19 as a part of my fleet work.

20 10. Q. Okay, and what were you teaching?

21 A. So I was actually teaching hybrid
22 vehicles to ---

23 11. Q. Okay.

24 A. --- first year apprentices.

25 12. Q. Okay, and then from November of 2011 to

A. Moss (Cr.-Ex.) - 7

1 April 2017, you were with Waste Management as a fleet
2 manager?

3 A. Yeah, Waste Management Canada. There
4 was two -- there's two, U.S. and Canada.

5 13. Q. Okay. Perfect. And your education.
6 So what was your -- what's your formal education from
7 Mohawk College?

8 A. So I -- I went to the -- I started out
9 as a heavy equipment mechanic. Went through a college
10 course to get my 310-T license.

11 14. Q. Okay.

12 A. Yeah.

13 15. Q. And that ---

14 A. And then I just -- sorry, go ahead.

15 16. Q. That was in the 90s, late 90s?

16 A. Yeah.

17 17. Q. Okay. Sorry, I don't mean to age you
18 or out you. And then is there -- do you have any
19 other post-secondary college diplomas or university
20 degrees other than the Mohawk College education that's
21 listed here?

22 A. No, nothing that I would bring up here.
23 Like I've done courses and stuff like that on
24 different things but, yeah.

25 18. Q. Okay, that's fine. Can you just

A. Moss (Cr.-Ex.) - 8

1 briefly describe what your main responsibilities are
2 as Director, Facilities and Fleet Management?

3 A. So my main, I guess, area that I look
4 after is the facilities that the Region owns. So all
5 the facilities with capital renewal work, which is
6 keeping the buildings up and then working with
7 different program areas to build new buildings if they
8 need new buildings or new space. And then on the
9 obviously, the maintenance of those buildings. And
10 then on the flip side with Fleet, it's the purchase
11 and maintenance and disposal of all vehicles and
12 equipment that the Region owns.

13 19. Q. Okay, that's a big role.

14 A. Yeah.

15 20. Q. And it must keep you busy.

16 A. It's exciting. Yeah.

17 21. Q. Yeah. How many people report to you?

18 A. The last -- off the top of my head, we
19 have 147.

20 22. Q. Okay. And when you were at Brampton as
21 Manager of Fleet Services, what was involved in that
22 role?

23 A. So a similar type of scenario. Looked
24 after the fleet of the -- dispose -- the purchase, the
25 maintenance, the disposal, and then -- of the fleet.

A. Moss (Cr.-Ex.) - 9

1 And as well looked after like some buildings.

2 So there was like stand-alone buildings with
3 car washes or, you know, like that type of thing.
4 Looked after the shops, looked after the maintenance,
5 looked after stuff like that.

6 23. Q. Okay. Thank you. Charlotte, we can
7 probably stop sharing the screen now, I think. I
8 think I'm done at that. And then, when you -- your
9 position at Waste Management, can you just briefly
10 describe what was involved with that?

11 A. So similar on the fleet side with the
12 garbage trucks, the loaders, the quality equipment but
13 with the -- it had a lot more to do with facilities.
14 Like so like transfer stations, the actual buildings,
15 all of that type of stuff fell under the fleet manager
16 as well.

17 24. Q. Okay, and ---

18 A. So ---

19 25. Q. --- waste management, they're -- it's
20 largely garbage facilities, right? Like waste
21 management facilities. When you say transfer
22 stations, like I would call that a -- like a -- a
23 garbage dump of that ---

24 A. No, that's a little bit different.
25 Yeah, a ---

A. Moss (Cr.-Ex.) - 10

1 26. Q. Okay.

2 A. --- transfer station is like -- so, I
3 don't know like on Northfield Drive.

4 27. Q. Okay.

5 A. So they bring the garbage in, they dump
6 it there. And then if it doesn't go to a landfill
7 here, we transport it out to like the -- I think it's
8 called Twin Pines Landfill in Sarnia or it goes across
9 the border. It's just a transfer from there to some
10 place it's going to end up.

11 28. Q. Okay. So before working for the
12 Region, none of those previous roles were really
13 related or involved with -- or involved dealing with
14 encampments, were they?

15 A. Correct, yeah.

16 29. Q. Okay. And is it fair to say ---

17 MS. SCHIUTEMA: (Indiscernible).

18 MS. DOWN: Yes?

19 MS. SCHIUTEMA: I am sorry, do you want to
20 make the other document an exhibit? I'm
21 sorry to interrupt.

22 MS. DOWN: Oh, yeah. Sorry, thanks for
23 reminding me. I always forget that. So I
24 think that would be Exhibit 1.

25 MR. LOKAN: Yeah.

A. Moss (Cr.-Ex.) - 11

1 MS. DOWN: Thanks.

2
3 EXHIBIT NO. 1: LinkedIn Profile

4
5 BY MS. DOWN:

6 30. Q. And so again, going back to your
7 previous roles in Brampton and at Waste Management, is
8 it fair to say that working with vulnerable people,
9 say people with mental health disorders or substance
10 use disorders, was not part of your duties or part of
11 the -- your work experience while you were Fleet
12 Manager at Brampton or at Waste Management?

13 A. Correct.

14 31. Q. Okay.

15 A. So the only time -- I don't know, can I
16 -- I don't know if I can reply back or ...?

17 32. Q. If you have something to add.

18 A. Yeah, so the only time I got involved
19 in that is during COVID. So a part of my upgraded
20 job, I guess you would say, was to deal with the -- I
21 want to call them soup kitchens, the places where
22 people would go.

23 And that was kind of my eye-opening
24 experience with that type of scenario. So I was
25 talking to a lot of people that were going through a

A. Moss (Cr.-Ex.) - 12

1 very difficult time.

2 33. Q. Okay, and that was when you were at
3 Brampton?

4 A. Brampton, yeah.

5 34. Q. Okay, and was -- the soup kitchen was
6 part of the Brampton's, like, part of their
7 facilities?

8 A. Right, so we did like -- like food
9 donations. I delivered food donations to these
10 different places, interacted with the people there.
11 And it was kind of like an eye-opening experience for
12 me, right?

13 35. Q. Okay. And eye-opening in that just
14 very different, like the people using those
15 facilities, very vulnerable population, a lot of
16 complex mental ---

17 A. Yeah.

18 36. Q. --- health issues.

19 A. Yeah.

20 37. Q. Okay, and is it fair to say that the
21 majority of your current role has very little to do
22 with that population of people? Like other than
23 supervising your team who are involved with this
24 encampment, like, you know, when you described your
25 role, it's a pretty -- a pretty massive role. This is

A. Moss (Cr.-Ex.) - 13

1 a pretty small discrete part of it.

2 A. Yeah, I would -- but again, I would
3 never -- I would never ask my team to do anything that
4 they don't want -- I wouldn't want to do. So I make
5 sure that I am there with them if there is, you know,
6 working with the vulnerable people.

7 38. Q. Okay, fair enough. Do you have any
8 involvement in your role with other parts of the
9 housing stability system that the Region manages?

10 A. With ---

11 39. Q. Like, for example, Region-funded
12 shelters or transitional housing?

13 A. Yes, so we look at -- so if we do
14 anything with building, like renovating, building, the
15 needs of the residents that live there, we work
16 closely with Peter Sweeney's group.

17 40. Q. Okay. But your focus -- you're focused
18 on the side of like if there is a facility that ---

19 A. Right.

20 41. Q. --- what do we -- what do we need to do
21 with the facilities.

22 A. Right.

23 42. Q. Not so much working with the --
24 directly with the people who are living there?

25 A. Correct.

A. Moss (Cr.-Ex.) - 14

1 43. Q. Okay. And that's because like -- that,
2 like as you said, that is -- that falls under Peter
3 Sweeney's responsibility as community -- and his team
4 in Community and Social Services, correct?

5 A. Correct, yeah.

6 44. Q. Can we agree that like when you're --
7 when you're looking at behaviour -- like the types of
8 behaviours that you might see vulnerable people
9 exhibiting, that it's -- context is really important.
10 Like knowing -- understanding the context.

11 MR. LOKAN: Shannon, I'm just going to ask
12 that you could give a little bit more --
13 speaking of context, just a little bit of
14 idea of what you're talking about when you
15 say, "behaviour that people might be
16 exhibiting?"

17 MS. DOWN: Yeah, so I mean -- well, I'm
18 going to -- maybe I'll step back.

19
20 BY MS. DOWN:

21 45. Q. Just I'll say if we're talking -- if
22 we're assessing just general human behaviour,
23 understanding the context that behaviour is happening
24 in, is sort of important.

25 And I can give you an example, if that

A. Moss (Cr.-Ex.) - 15

1 helps.

2 A. Sure, please.

3 46. Q. So, just as an example, something -- if
4 I were to be in an office environment and I'm swearing
5 or yelling, that would probably -- likely be perceived
6 as being very inappropriate in that context. Fair?

7 A. Yeah, I -- yeah.

8 47. Q. Okay. Whereas maybe in a soup kitchen
9 or a homeless shelter, in that context, a person may
10 be swearing or yelling, wouldn't be as unexpected or
11 as inappropriate. Is that fair to say?

12 A. I would say, yeah.

13 48. Q. Okay. And so you mentioned -- you sort
14 of alluded to this I think when you talked about an
15 eye-opening experience, someone who has only maybe
16 worked in an office environment might feel
17 uncomfortable or unprepared if they were dropped into
18 a homeless shelter to work for the day. Is that fair
19 to say?

20 A. I -- yeah, I ---

21 49. Q. Because they haven't had any experience
22 with that.

23 A. If they've had -- never had any
24 experience, yes.

25 50. Q. Okay. So following on that, can we

A. Moss (Cr.-Ex.) - 16

1 agree that it's really important to maybe to
2 understand and have familiarity with a particular
3 context to be prepared for, you know, or understand
4 what kind of behaviours to expect?

5 A. Right, yeah.

6 51. Q. Okay. And so, not having worked --
7 direct experience working with people who had, say,
8 mental health disorders or substance use disorders,
9 might make it hard for that person to assess the
10 seriousness of those behaviours?

11 A. Correct, if you've never had that
12 experience, yeah.

13 52. Q. Right. And I understand that you've
14 had some peripheral experience dealing with those
15 people but I am going to suggest to you that, you
16 know, there's nothing in your -- what you've described
17 as your direct experience that really has prepared you
18 for working with that population.

19 Like there, you know, compared to say
20 someone who is a social worker who's been trained and
21 has experience working in that environment. Is that
22 fair?

23 A. The only thing that I would say with
24 myself is like you said, when I said about an eye-
25 opening experience, I took the -- like the Psychology

A. Moss (Cr.-Ex.) - 17

1 101 courses, the mental health first aid courses. And
2 then got more into that and when I was at the City of
3 Brampton. That's kind of why I went down that path, I
4 guess you would say.

5 53. Q. Sure.

6 A. Because I did see a need for it for
7 people.

8 54. Q. Right.

9 A. When we were there, we started a mental
10 health first aid group, we started -- you know, and
11 there was a lot of circumstances that was -- that was
12 good training for myself to deal with -- or to talk to
13 at least talk and understand.

14 55. Q. Right, because these -- I mean, these
15 can be, in fairness, these can be really challenging
16 behaviours to ---

17 A. Oh, yeah.

18 56. Q. --- address.

19 A. Oh, for sure, absolutely. Yeah.

20 57. Q. Yeah, and people -- like I am just
21 going to suggest that people in the social work world,
22 for example, like they spend months in placements
23 during their education.

24 A. Yeah.

25 58. Q. Because it's not just the educational

A. Moss (Cr.-Ex.) - 18

1 component, it's the actual like day-to-day experience
2 working one on one with people that would provide you
3 with the kind of experience that you need to build a
4 really ---

5 A. Yeah.

6 59. Q. --- understand those behaviours. Is
7 that fair to say?

8 A. That's fair, yeah.

9 60. Q. Okay. So, you know, I think is it fair
10 to say that your assessment of the encampment might
11 differ, for example, from someone who is like a social
12 worker who has worked in the shelter system for years?
13 And is very familiar with that context of working with
14 people with mental health disorders, substance use
15 disorders, your assessment and their assessment of
16 what's happening at a, you know, at a shelter or at
17 the encampment might be different.

18 MR. LOKAN: Can I just -- there was a lot in
19 that question. It was quite compounded.

20 MS. DOWN: Yeah.

21 MR. LOKAN: (Indiscernible) to break it up.
22 And also are you talking about facts, this
23 is a fact witness, what happened. Or are
24 you asking about the reasons for why things
25 happened?

A. Moss (Cr.-Ex.) - 19

1 MS. DOWN: No, I mean, I think I am allowed
2 to. He's made some assessments in his
3 affidavit about the situation in the
4 encampment and I am allowed to ask him about
5 that. And maybe we'll let -- see if he
6 understood my question because I think, so
7 far, he's be going really well answering
8 them.

9 MR. LOKAN: Yeah, sure but the question --
10 the question had a lot of parts to it. I
11 would ask you to break it down.

12
13 BY MS. DOWN:

14 61. Q. So I'm asking if, Aaron -- I am just
15 asking if your assessment of safety at the encampment
16 might differ from someone else who works in the
17 shelter system? Like someone like a social worker who
18 has been dealing with this population for years as
19 part of their job?

20 A. Yeah, I don't -- I don't know if my
21 assessment would be different than anybody else's,
22 right? I'm looking at it as a -- if you're talking
23 about safety or like the safety of my staff, like the
24 -- that I was talking about in there. I don't know it
25 is would be different.

A. Moss (Cr.-Ex.) - 20

1 62. Q. Okay. But I am just going back to --
2 like so the office environment and I can draw on like
3 my own experience. I know when I was a lawyer in
4 private practice and then I went to the community
5 legal aid clinic.

6 Like the behaviours of the community legal
7 aid clinic would have had someone in my private
8 practice office calling the police. Whereas it was at
9 the legal aid clinic, it's just -- it's just another
10 day. Some of them in the lobby yelling, we're just
11 going to deal with it.

12 So I'm just trying to -- again, I am just
13 suggesting that it is -- sometimes it takes practice,
14 experience, to get used to these challenging
15 environments.

16 A. Okay, yeah. I am not sure how to
17 answer that.

18 63. Q. Okay. That's fine. Just back to -- I
19 mean, at the end of the day, your main role, your main
20 focus is the property, the fleet, the buildings, that
21 is the bulk of your role and your experiences dealing
22 with vehicles, buildings, not people with mental
23 health issues. Is that fair to say?

24 A. I would say it's fair to say up until
25 the point where it starts affecting the staff where I

A. Moss (Cr.-Ex.) - 21

1 have an obligation to make sure our staff is safe.

2 64. Q. Okay, so that's your main -- that's
3 your main focus ---

4 A. Mm-hmm.

5 65. Q. --- is your staff?

6 A. My staff (indiscernible) ---

7 66. Q. When it comes to those challenging
8 behaviours?

9 A. Yeah.

10 67. Q. Okay. That's fine. I'm now going to
11 turn to the -- I am going to be asking you some
12 questions about sections 22 -- Paragraphs 22 to 27 of
13 your affidavit and that's the part that deals with the
14 pictures of the tents in the sidewalk.

15 A. Okay.

16 68. Q. So Charlotte, are you able to put up
17 the Exhibit B which shows -- which is the photographs?

18

19 --- SCREENSHARE

20

21 69. Q. So, Aaron, in your affidavit -- just
22 give me one moment here. In your affidavit, you say
23 that you're concerned about the tents being on the
24 sidewalk and the impact.

25 When I am looking at this photograph, I am

A. Moss (Cr.-Ex.) - 22

1 not seeing that tent. Like is that tent not on an
2 embankment next to the sidewalk?

3 A. You -- you can't tell very well because
4 of the snow that's there. But that is a -- I don't
5 know if there is a -- like that's a stepped sidewalk
6 area on there. So it's not -- like there's steps
7 right there.

8 70. Q. Yeah, I ---

9 A. (Indiscernible).

10 71. Q. Like at the very front?

11 A. Yeah, so where you're -- you see the
12 green? I guess that's green, a tent, or the blue
13 tarp?

14 72. Q. Yeah.

15 A. In front of there, that's steps. And
16 then that's all concrete there.

17 73. Q. Okay. But it's not -- I mean, it
18 doesn't look -- like even if that tent's there, I am
19 having a hard time imagining someone walking down
20 there when there's a plowed pavement area right next
21 to it.

22 A. Yeah, and a part of the clean-up is the
23 staff go down that and make sure it's cleaned up.
24 They ask the residents if there's a resident there, if
25 they can move their items, I guess you would say.

A. Moss (Cr.-Ex.) - 23

1 74. Q. Okay, but this area that we see to the
2 -- when we're looking at the left side of the
3 photograph, like pedestrians can walk along there.

4 A. Yeah, when it's cleared like this,
5 correct. Yeah.

6 75. Q. Right. No one is going to be walking
7 along the area where the snow has covered that area.
8 No one is ---

9 A. No.

10 76. Q. --- walking along there?

11 A. Not with the snow. No.

12 77. Q. Okay.

13 MR. LOKAN: (Indiscernible)?

14 THE WITNESS: Sorry, I didn't -- I didn't
15 catch that?

16 MR. LOKAN: I'm sorry, I shouldn't ---

17 MS. DOWN: Yeah, it's all right.
18

19 BY MS. DOWN:

20 78. Q. I mean, I think my point is, my next
21 question is, this doesn't -- this doesn't show that --
22 that pedestrians are being impacted because there's --
23 it's clear that they're not going to walk on the snowy
24 part. They're going to walk on the cleared pavement
25 part. Is that fair to say?

A. Moss (Cr.-Ex.) - 24

1 A. In this particular circumstance, yes.

2 79. Q. Yeah, okay. And it doesn't -- this
3 does not show that the tent -- this doesn't seem to
4 show a dangerous situation of proximity to the road
5 because there's a pretty wide area. And then it looks
6 like there's an actual physical barrier between the
7 bike lane or walkway and the road. Is that accurate?

8 A. Sorry, is that a question?

9 80. Q. Yeah, that -- I'm just -- I'm just
10 saying, I don't -- I don't see where it's proximate to
11 the -- like, it doesn't seem to be very close to Weber
12 Street because there's a wide of area of pavement and
13 then a physical barrier before someone is on the road.
14 Is that not what you're seeing in this photograph as
15 well?

16 A. Yeah, so if you take the angle from the
17 other side, this is looking at one angle. If you take
18 it on the other corner where the resident, Tony, was,
19 there was a lot of debris and a lot of belongings that
20 would spill out onto Victoria.

21 81. Q. Okay, but this is -- this photograph is
22 not showing that.

23 A. Right, this is one angle, yeah.

24 82. Q. I am going to move now to Paragraph 32.
25 So, in Paragraph 32, you mentioned -- that's dealing

A. Moss (Cr.-Ex.) - 25

1 with Sanguen with the health community mobile health
2 van.

3 A. Right.

4 83. Q. In Paragraph 32, you say that:

5 "... Sanguen informed the Region
6 that it will no longer be
7 providing services at the
8 encampment due to escalating
9 violence ..."

10 That's in Paragraph 32.

11 A. Correct, yeah.

12 84. Q. Okay.

13 A. (Indiscernible) ---

14 85. Q. We had been advised ---

15 A. Sorry.

16 86. Q. --- that it was actually the Region who
17 called Sanguen to advise them that there was a
18 security concern. And then in response to that
19 regional communication that Sanguen temporarily paused
20 to assess the risk themselves.

21 A. So I can't -- oh, sorry, are you done?

22 I didn't know ---

23 87. Q. No. So I just -- so my question is, so
24 it is inaccurate to say that Sanguen temporarily
25 withdrew its services on its own initiative.

A. Moss (Cr.-Ex.) - 26

1 A. So I can't really comment on that
2 because that falls under -- I -- I've got to look up,
3 sorry, if you look up, Mr. Pettipiere may look after
4 that aspect with Sanguen.

5 88. Q. Okay. So you have ---

6 A. (Indiscernible).

7 89. Q. --- no direct knowledge ---

8 A. No, I don't.

9 90. Q. --- of that?

10 A. I don't get involved with the -- like
11 that Sanguen group or -- so I can't comment on that.

12 91. Q. Okay, so it was Mr. Pettipiere who
13 informed you about that?

14 A. Yes.

15 92. Q. Okay. And so, you know, our suggestion
16 is that Mr. Pettipiere's comment to you was inaccurate
17 because we have an affidavit that we're going to be
18 filing where Sanguen says no -- the Region -- we
19 didn't say we're not coming back because we've decided
20 it's dangerous or there's escalating violence, we got
21 a call from the Region telling us there was a problem,
22 and then we did our own assessment.

23 You don't have any information that
24 contradicts that?

25 A. I can't, no. Like I couldn't speak to

A. Moss (Cr.-Ex.) - 27

1 that because like I said, I don't get involved in that
2 aspect.

3 93. Q. Okay.

4 MR. LOKAN: These two paragraphs are on
5 information and belief from Mr. Pettipiere
6 so if you ---

7 MS. DOWN: Yeah, it didn't actually say that
8 in the affidavit and so ---

9 MR. LOKAN: It actually does ---

10 MS. DOWN: Oh, it does say -- it does say,
11 yeah, okay. But it's still -- it's still
12 open for us to cross-examine him on these.

13 MR. LOKAN: Of course, but I was -- what I
14 was going to say that if you have any
15 request by way of undertaking to take a
16 question back to Mr. Pettipiere given that
17 he was the source of information and belief
18 ---

19 MS. DOWN: Okay, I mean we could get an
20 undertaking for him to confirm that it was
21 the Region that contacted Sanguen and that
22 it wasn't the other way around, it wasn't
23 Sanguen informing the Region.

24 THE WITNESS: I'm sorry, that's not for me,
25 right? Is that ---

A. Moss (Cr.-Ex.) - 28

MS. DOWN: That's right, you're off the hook
for that part.

THE WITNESS: Okay.

MS. DOWN: That's affirmative
(indiscernible) answer.

THE WITNESS: Okay.

MR. LOKAN: I'm just getting that down, yes,
we'll give that undertaking.

UNDERTAKING

BY MS. DOWN:

94. Q. Okay, I guess, just in follow-up, so
you can't -- just Aaron, this is for you.

A. Yes.

95. Q. You can't say that it's -- whether it's
true or not about -- you have no way to know whether
it's true or not that -- like the suggestion that
Sanguen permanently withdrew to escalating violence?

We're suggesting that's not true. You don't
really have any information to contradict that?

A. No, I don't. I couldn't -- yeah, I
don't know.

96. Q. Okay.

A. Yeah.

97. Q. And just further on that, our

A. Moss (Cr.-Ex.) - 29

1 suggestion -- our information is that we've been
2 advised that Sanguen, after assessing it -- the
3 situation, they made the decision to resume services.
4 And you have -- that has been put on the record by
5 your counsel. So you would agree with that?

6 A. Yes.

7 98. Q. Okay. Give me one moment here. I am
8 going to just pause for this one but almost done.
9 Yes. Just a few more questions.

10 So at paragraph -- well, I have it as
11 Paragraph 37. It's the paragraph where you say that
12 -- Mr. Pettipiere informed you that:

13 "... There are no existing residents and
14 that 39 individuals who were existing
15 residents have left the encampment and
16 are no longer residing there ..."

17 Do you know where those people are now?

18 A. No, I wouldn't -- yeah, no, I wouldn't
19 know. I haven't asked the question where they've
20 gone.

21 99. Q. Okay.

22 A. Yeah.

23 100. Q. So it is possible that they could be
24 back on the street and living in a tent?

25 A. I wouldn't be able to answer that. I

A. Moss (Cr.-Ex.) - 30

1 don't know.

2 101. Q. Okay. You don't know, that's fine.
3 And similarly the 25 individuals that were assisted by
4 the Region in finding alternate indoor accommodation,
5 is there any information you can provide to us about
6 where they are now?

7 A. No, I think that would be more of a
8 question for Mr. Pettipiere or Mr. Sweeney. That
9 would be their aspect -- or their -- I don't what you
10 call that, their forte? I don't know.

11 102. Q. Okay.

12 A. Yeah.

13 103. Q. Can we get an undertaking that Mr.
14 Pettipiere provide us with -- if whether -- if --
15 sorry.

16 Can we get an undertaking for Mr. Pettipiere
17 to provide us with any information that the Region has
18 on the whereabouts of the 39 existing residents who
19 have left the encampment and are no longer residing
20 there?

21 Or the 25 individuals who were assisted in
22 finding alternate -- I guess they're part of the 39.

23 MR. LOKAN: Yeah. I'll give that
24 undertaking.

25 **UNDERTAKING**

A. Moss (Cr.-Ex.) - 31

1 BY MS. DOWN:

2 104. Q. And Paragraph 38, there's the updated
3 information that there's 10 -- well, 10 to 12
4 individuals regularly on-site and only one to three
5 are staying.

6 One of the things I wanted to ask you about
7 that is it's sometimes -- would you agree that
8 sometimes it's very hard for people to know who is at
9 the encampment at any given time because of the
10 ability to enter or exit the encampment from different
11 parts of the property?

12 A. So again, yeah, but again that would
13 fall under the purview of the unsheltered support
14 workers.

15 105. Q. Okay.

16 A. No, I don't -- yeah.

17 106. Q. But you've been down there.

18 A. Yeah.

19 107. Q. So you probably are familiar with the
20 fact that, you know, you can come onto the encampment
21 from the Weber Street side. You can come onto the
22 encampment from the Victoria Street side.

23 It's almost -- I am going to suggest it's
24 almost impossible to be monitoring all parts of the
25 property to know, you know, to see who is coming on

A. Moss (Cr.-Ex.) - 32

1 and who is leaving. Is that fair to say?

2 A. Yeah, again, I -- it would be a
3 complete guess on my part on how that -- how they work
4 that. I don't know.

5 108. Q. Right. I am just asking you based on
6 your knowledge of how the property is set up in the
7 tents.

8 Like do you agree it is hard to tell -- you
9 know, it's hard to -- if you're standing at one side
10 of the property, you can't necessarily see what's
11 happening if you were over by the, say the port-a-
12 potties.

13 You can't really see what's happening on the
14 Weber Street side of the encampment because of the
15 structures and the tents that are there.

16 A. Yeah, it would be hard to see on the
17 one side to the other. Yeah.

18 109. Q. Yeah. And is it your experience that
19 it's a feature of the encampment that the number of
20 people who use it, it varies day to day, weekly,
21 monthly, seasonally?

22 A. Yeah, like the summertime would be more
23 -- well, what I've seen and the numbers that is
24 provided by the unsheltered support work, that group,
25 is that the numbers fluctuate through the year.

A. Moss (Cr.-Ex.) - 33

1 110. Q. Right. And you probably observed that
2 first-hand yourself because you've been there on a
3 number of occasions?

4 A. Talking to the residents that are there
5 one day and then not there the next time or they're
6 back, type of deal. Yeah.

7 111. Q. Right. So there's a -- I think it's
8 fair to say that there's a lot of movement in and out
9 of the encampment, not just day-to-day but, you know,
10 month-to-month and season-to-season?

11 A. Yeah, it fluctuates. Yeah.

12 112. Q. Okay. And is it, in your experience in
13 the time that you've been working at the Region -- and
14 I think you just mentioned that in the spring and
15 summer, the population tends to grow significantly?

16 A. Yeah, it fluctuates from wintertime to
17 summertime, to fall to ---

18 113. Q. Okay.

19 A. It fluctuates, yeah.

20 114. Q. And the fluctuation from winter to
21 spring is that it's trending upwards. It's as the
22 weather gets nicer, there's more and more people who
23 are moving into the encampment?

24 A. Yeah, like there's more people based on
25 the -- I would have to look at the numbers to confirm.

A. Moss (Cr.-Ex.) - 34

1 I don't want to tell you something that is not ---

2 115. Q. Yeah, I just ---

3 A. --- true.

4 116. Q. I'm just -- I'm just like ---

5 A. Yeah.

6 117. Q. I'm asking you based on your
7 experience, say last spring ---

8 A. Okay.

9 118. Q. --- like, you know, when you were going
10 there in May, like the difference between, say, going
11 there at this time of year in February and being
12 there, say, at the -- in April or in May. Did you
13 notice a trend upwards in the numbers?

14 A. Yeah, I'd have to go back and look at
15 -- yeah. But like I said, it fluctuates, right? It
16 fluctuates at any given time.

17 119. Q. Okay. I am just going to take a brief
18 pause. I think we're done but just give me a brief
19 one minute. And then I'll be right back.

20 A. Okay.

21
22 --- BRIEF PAUSE

23
24 120. Q. A couple more questions. So,
25 Charlotte, can you put up the Exhibit C, the other

A. Moss (Cr.-Ex.) - 35

1 photograph?

2
3 --- SCREENSHARE
4

5 121. Q. All right, so this is from a different
6 angle. It's almost -- it's not exactly the opposite
7 angle of the other photograph.

8 A. Yeah.

9 122. Q. But I am trying to see -- so again, I
10 am having a hard time seeing where the tent is
11 spilling onto the sidewalk or close to the road.

12 A. Yes. So if you -- I don't know, do you
13 see the structure to the left of the pylons?

14 123. Q. Yes.

15 A. So right behind there, there -- one of
16 the residents that lived there, his name is "Tony," he
17 is a fantastic person. That whole corner there, it's
18 bad -- it's not a good angle.

19 But that corner right there, that's where he
20 has his belongings and it was coming out onto the
21 sidewalk to a -- like you actually had to walk close
22 to the road to get around it.

23 Now we work with Tony, he's great. He does
24 what he can but there was a lot of stuff spilling out.

25 124. Q. Okay. But the sidewalk there is

A. Moss (Cr.-Ex.) - 36

1 actually -- it, like closer -- like so the sidewalk is
2 the corner, right? That's showing us the corner of
3 Victoria and Weber and the crosswalk going up to the
4 sidewalk.

5 So that structure -- I don't know what that
6 is, it's something that says something about this
7 area. But the sidewalk is on our side ---

8 A. Yeah, it goes ---

9 125. Q. --- like on the viewer's side.

10 A. Yeah, it goes around there and as soon
11 as it goes around that corner, that whole corner there
12 -- again, it gets cleaned up every -- I normally go
13 there and clean it up, push it, the stuff back off the
14 sidewalk.

15 126. Q. Okay, so he -- I mean, he has -- you're
16 saying Tony has been compliant, he's -- he's trying to
17 help when he can.

18 A. He -- he tries. He's one of the
19 residents that tries very hard to work with us. Yeah.

20 127. Q. Okay. I appreciate that comment, so
21 thank you for that.

22 Those are my questions, subject to any
23 questions in -- so I am done. I don't know if,
24 Andrew, you have anything in reply?

25 MR. LOKAN: I have a couple of brief

A. Moss (Re-Ex.) - 37

1 questions in re-exam. Mercedes, is there
2 anything from the Amicus?

3 MS. PEREZ: Not from me. All the areas I
4 would have asked about have been covered.
5 Thank you.

6 MR. LOKAN: Okay. I just want to go back to
7 Exhibit B, if we can put the Exhibit B photo
8 up.

9
10 --- SCREENSHARE

11
12 RE-EXAMINATION BY MR. LOKAN:

13 128. Q. And I am seeing a line down the middle
14 of the clear path to the left of the tents. Is that a
15 pedestrian or is that a bike path or is that
16 (indiscernible)? Could you tell us what that is?

17 A. Sorry, just for clarification, like to
18 where the snow is or where -- right in front?

19 129. Q. Right in front. So what's showing no
20 snow and ---

21 A. Oh, sorry.

22 130. Q. --- and a gold yellow line down the
23 middle?

24 A. Yes. Sorry, that's a -- yes. That's a
25 pedestrian walkway and a bike path.

A. Moss (Re-Ex.) - 38

1 131. Q. Combined?

2 A. Combined, yes.

3 132. Q. Okay. You mentioned in your cross-
4 examination that at the moment, it's showing clear.
5 Is it always clear?

6 A. No, it is not always clear. It just --
7 the day that this picture was taken, it was cleared
8 and salted by the city or ---

9 133. Q. Okay. And just to help orient us, you
10 talked about Tony and Tony's tents and belongings
11 spilling out onto the sidewalk.

12 Is it possible to indicate where in this
13 picture it would be? Is that the corner that the path
14 leads to, if you just go along a little further to the
15 right?

16 A. So where that van is turning ---

17 134. Q. Yeah.

18 A. --- if you go to the right, that --
19 there's that structure right there. To the right of
20 that, that's where Tony's residence was.

21 135. Q. And by residence, you mean his tent?

22 A. His tents, his -- he had a couple of
23 structures. He had a -- a wooden structure and then a
24 tent over top of the one side and then his belongings,
25 like tables and chairs and so on and so forth.

A. Moss (Re-Ex.) - 39

1 136. Q. Okay, and it's the belongings that were
2 spilling out onto the ---

3 A. Correct.

4 137. Q. Okay.

5 A. Yeah.

6 138. Q. Okay. I don't have any further
7 questions in re-exam.

8 MS. DOWN: Okay, thank you very much, Mr.

9 Moss. I appreciate your assistance today.

10 THE WITNESS: Okay, it was nice meeting you
11 all.

12 MS. DOWN: Nice meeting you.

13 MR. LOKAN: Thank you.

14
15 --- WITNESS EXITS ZOOM
16

17 MR. LOKAN: So we are done.
18
19
20
21

22 --- ADJOURNED
23
24
25

- 40

THIS IS TO CERTIFY that the foregoing
is a true and accurate transcription of
my recordings and notes, to the best of
my skill and ability.



Barbara A. Pollard
Certified Court Reporter

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EXHIBIT “1”

Contact

www.linkedin.com/in/aaron-moss-6099a866 (LinkedIn)

Top Skills

Operations Management
Environmental Awareness
Waste Management

Certifications

Coach Your Team to Learn, Stretch, and Grow
Coaching and Developing Employees
Coaching Employees through Difficult Situations
Contracting for Consultants
Change Leadership

Aaron Moss

Director of Facilities and Fleet at the Region of Waterloo
Greater Kitchener-Cambridge-Waterloo Metropolitan Area

Summary

Experienced Fleet Manager with a demonstrated history of working in the government administration industry. Skilled in Operations Management, Environmental Awareness, Fleet Management, Environmental Services, and Business Development. Strong support professional graduated from Mohawk College.

Experience

Region of Waterloo
Director
March 2024 - Present (2 years)
Canada

City of Brampton
Manager of Fleet Services
May 2017 - March 2024 (6 years 11 months)
Brampton Ontario

Conestoga College
Teacher
January 2020 - November 2020 (11 months)
Guelph, Ontario, Canada

Waste Management
Senior District Fleet Manager
November 2011 - April 2017 (5 years 6 months)

Education

Mohawk College
310T License , Heavy Equipment Maintenance Technology/
Technician · (1995 - 1999)

THE REGIONAL MUNICIPALITY OF WATERLOO
Applicant

-and-

Court File No. CV-25-00000750-0000
PERSONS UNKNOWN AND TO BE ASCERTAINED
Respondents

**ONTARIO
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT
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JOINT TRANSCRIPT BRIEF (VOLUME 4 OF 5)

Paliare Roland Rosenberg Rothstein LLP

155 Wellington Street West, 35th Floor
Toronto ON M5V 3H1
Tel: 416.646.4300

Gordon Capern (LSO # 32169H)

Tel: 416.646.4311
Email: gordon.capern@paliareroland.com

Andrew Lokan (LSO # 31629Q)

Tel: 416.646.4324
Email: andrew.lokan@paliareroland.com

Kartiga Thavaraj (LSO # 75291D)

Tel: 416.646.6317
Email: kartiga.thavaraj@paliareroland.com

Greta Hoaken (LSO # 87903I)

Tel: 416.646.6357
Email: greta.hoaken@paliareroland.com

Lawyers for the Applicant,
The Regional Municipality of Waterloo