

RELEASE DATE: November 4, 2015



Manitoba

**THE PROVINCIAL COURT OF MANITOBA**

IN THE MATTER OF: *The Fatality Inquiries Act, C.C.S.M. c. F52*

AND IN THE MATTER OF: An Inquest into the Death of ERRABELLA  
ANGEL HARPER

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Report on Inquest and Recommendations of  
Judge Tracey Lord  
Issued this 30th day of October, 2015

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**APPEARANCES:**

Counsel to the Inquest: Ms. N. Roch  
Counsel for St. Theresa Point First Nation:  
Mr. N. Boudreau and Mr. C. Shefman

**RELEASE DATE: November 4, 2015**



**Manitoba**

***THE FATALITY INQUIRIES ACT*, C.C.S.M. c. F52**

**REPORT BY PROVINCIAL JUDGE ON AN INQUEST  
INTO THE DEATH OF: Errabella Angel Harper**

An inquest respecting the death of Errabella Angel Harper was held on March 17, 18, 19, 2014 in St. Theresa Point, Manitoba and December 15, 16, 17 and 18, 2014 in Winnipeg, Manitoba.

This report contains my findings and recommendations. Attached is a schedule of all exhibits required to be filed. Pursuant to the provisions of subsection 33(3) of *The Fatality Inquiries Act*, I am ordering that all exhibits be returned to the Exhibit Officer, Provincial Court of Manitoba, to be released only upon application with notice to any party with a privacy interest.

Dated at the City of Winnipeg, in Manitoba, this 30th day of October, 2015.

*“Original signed by Judge Tracey Lord”*

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Judge Tracey Lord

Copies to: Dr. A. Thambirajah Balachandra, Chief Medical Examiner  
Chief Judge Ken Champagne, Provincial Court of Manitoba  
The Honourable Gord Mackintosh, Minister Responsible  
for *The Fatality Inquiries Act*  
The Honourable Julie Frederickson, Deputy Minister of  
Justice & Attorney General  
Russ Ridd, Director of Regional Prosecutions  
Lorraine Prefontaine, Director of Special Prosecutions and Appeals  
Ms. N. Roch, Inquest Counsel  
Mr. N. Boudreau and Mr. C. Shefman, Counsel for St. Theresa Point First Nation

## **INTRODUCTION AND CHRONOLOGY OF PROCEEDINGS**

By letter dated June 20, 2011 the Chief Medical Examiner for the Province of Manitoba directed that an Inquest be held into the death of Errabella Angel Harper (age 2 ½ months), pursuant to sections 19(1) and (2) of *The Fatality Inquiries Act*. The death occurred on January 16, 2011 in the community of St. Theresa Point, Manitoba.

By letter dated June 21, 2011, the Chief Medical Examiner also directed that an Inquest be held into the deaths of Demus James( age 73), Throne Kirkness (age 2), and Kayleigh Okemow (age 3) pursuant to the same sections. These deaths occurred on March 14, 2011 in God's Lake First Nation, Manitoba.

These deaths all occurred as a result of house fires occurring in First Nation communities.

It was further recommended by the Chief Medical Examiner that these deaths be the subject of one Inquest pursuant to section 26(2) of *The Fatality Inquiries Act*, due to the closely related timing and circumstances surrounding each of the house fires.

A Standing Hearing respecting both Inquests was held on February 24, 2012. At that time, Ms. K. Gilson requested, and was granted standing on behalf of God's Lake First Nation. She subsequently advised on July 8, 2013 that she was no longer retained to act in this proceeding.

No other parties sought standing with respect to either Inquest at the Standing Hearing, including the Government of Canada.

The Inquest was set to begin in St. Theresa Point on July 18, 2013. On July 17, 2013, Mr. Boudreau requested, and was granted standing on behalf of St. Theresa Point First Nation. As a result, the proceedings set for July in that community were adjourned, and re-set for March 17-19, 2014 in St. Theresa Point.

The joint Inquest hearings sat on the following dates:

July 30, 31, August 1, 2013 and March 3, 2014 in God's Lake,  
March 17, 18 and 19, 2014 in St. Theresa Point, and  
December 15, 16, 17 and 18, 2014 in Winnipeg.

While the two Inquests were held together, the experiences of the communities of St. Theresa Point and God's Lake First Nations and their responses to these tragic deaths are unique and as such will be dealt with in separate Inquest Reports.

## **SCOPE OF INQUEST**

[1] The Chief Medical Examiner called these Inquests for the following reasons:

To determine the circumstances relating to the deaths; and to determine what, if anything can be done to prevent similar deaths from occurring in the future with regard to, but not limited to, the following:

- a) installation of fire and smoke alarm systems and carbon monoxide detectors in all residences on Manitoba First Nations;
- b) regulation, monitoring and maintenance of wood stoves in all residences on Manitoba First Nations;
- c) regulation, monitoring and maintenance of baseboard heaters in all residences on Manitoba First Nations;
- d) provision of adequate firefighting equipment and personnel for all Manitoba First Nations; and
- e) regular inspection for fire hazards in all residences on Manitoba First Nations.

[2] Section 33(1) of *The Fatality Inquiries Act* sets out the duties of the presiding judge upon completion of the Inquest:

### **Duties of provincial judge at inquest**

33(1) After completion of an inquest, the presiding provincial judge shall

- (a) make and send a written report of the inquest to the minister setting forth when, where and by what means the deceased person died, the cause of the death, the name of the deceased person, if known and the material circumstances of the death;
- (b) upon the request of the minister, send to the minister the notes or transcript of the evidence taken at the inquest; and

(c) send a copy of the report to the medical examiner who examined the body of the deceased person;

And may recommend changes in the programs, policies or practices of the government and the relevant public agencies or institutions or in the laws of the province where the presiding provincial judge is of the opinion that such changes would serve to reduce the likelihood of deaths in circumstances similar to those that resulted in the death that is the subject of the inquest.

It is not the function of the presiding judge to lay blame with anyone who may have been involved in the deaths.

[3] In the 2005 Inquest Report into the death of Glenn Fiddler, prepared by Provincial Judge Sidney Lerner, the role of the Inquest judge as it relates to deaths occurring on First Nation communities was examined.

[4] At paragraphs [301] and [302], Judge Lerner noted the following:

[301] ...a Provincial Judge presiding at a provincial inquest is without jurisdiction to make recommendations to the Federal Government specifically directed to the policies, procedures, and management of Federal departments and agencies.

[302] However, a provincial Inquest does have the jurisdiction to make inquiries into the material circumstances of the death of one of its citizens, including as noted above, a death occurring on First Nation land. While there is a jurisdictional limitation with respect to the nature of the recommendations that may be made as a result of that inquiry, it does not restrict the fact finding aspect of the inquiry from identifying, without recommendation, the problems or deficiencies within Federal departments and agencies that may have formed a part of the material circumstances of death.

## **SUMMARY**

[5] Errabella Angel Harper age two and one-half months died in a house fire on January 16, 2011 in the community of St. Theresa Point Manitoba. There is no issue that the cause of her death was the result of the fire.

[6] St. Theresa Point is one of four First Nation communities that comprise Island Lake Manitoba. It is located approximately 500 km north east of Winnipeg and has a population of almost 4000 people. St. Theresa

Point is accessible by boat or helicopter in the summer months and by winter road in the winter season. The community can be accessed year round by air flights that land on St. Mary Island and Stevenson Island. The community is policed by Band Constables and by the Island Lake Royal Canadian Mounted Police (RCMP) detachment located some distance away on Stevenson Island.

## **WITNESSES**

Leslie Harper (Evidence given March 17, 2014)

[7] Ms. Harper is a resident of St. Theresa Point First Nation. Ms. Harper has six children and is the grandmother of the deceased infant Errabella. In January of 2011, Ms. Harper lived in her parents' former residence with her daughter Ashley, (Errabella's mother) and her other children, Angela (13), Martha (10), Jay(6), Michael (5), and Ashley's other daughter Quallyn (1). Ms. Harper's parents lived in a newer home located next door.

[8] Ms. Harper testified that the house itself was older in age and of wood construction. It was heated primarily by a wood stove located in the living room. Electric heaters were also used for added heat in the bedrooms. There were three bedrooms in the home. Ms. Harper and three of her children slept in one bedroom, her daughter Ashley slept in a second bedroom with Quallyn and Errabella, and Angela had her own room.

[9] Ashley's bedroom contained a single bed and a basinet for Errabella. In addition to the electric space heater, the bedroom window was covered on the inside by blankets to keep out drafts.

[10] The house did not have smoke detectors, a fire extinguisher or running water.

[11] When Ms. Harper awoke on January 16, 2011, at approximately 8:30 a.m., all of the children were still sleeping. She said that the woodstove was not lit, but had been the night before. Ms. Harper indicated that the fire went out sometime between midnight and 2:00 a.m.

[12] She noted that her daughter Ashley was not at home that morning, as she had spent the night prior at Ms. Harper's other daughter Valerie's residence drinking. Ms. Harper went to Valerie's residence and told Ashley

to go home, as she was going next door to her parents' residence to cook and clean for them as she did every day.

[13] At 10:00 a.m. Ms. Harper went back to her own house. Ashley had still not returned, and the children were still sleeping. Ms. Harper returned next door to continue to care for her parents.

[14] Ms. Harper testified that just before noon, her daughter Martha came next door to her parents' house. She was crying and told her that the house was on fire. By the time Ms. Harper ran home the house was already burning and a number of people were there trying to help get the children out.

[15] Her granddaughter Quallyn was out of the house when she arrived, but Errabella was not. She testified that she recalled seeing someone running from the house to the road holding Errabella. She recalled that someone drove her to the nursing station. When she arrived she learned that Errabella was dead.

[16] Her older daughters Ashley and Valerie also arrived at the nursing station. Ms. Harper advised that they were both drunk on super juice.

[17] Ms. Harper testified that she lost all of her belongings in the fire and that she had no insurance coverage. At the time of her testimony she had not been allocated another house for herself and her children, and was unsure if she was even on the list to receive one. She advised that it was her understanding that there were no houses available for single parents in St. Theresa Point. Further, she explained that because her band membership is actually associated to Wasagamack First Nation due to her marriage, rather than St. Theresa Point, she may not even be eligible to receive a house. After the fire, she and her children lived with her parents for a year and at the time of giving her evidence she was house-sitting at her in-laws in Wasagamack while they were out of the community.

#### Abraham and Nadine Monias (Evidence given March 17, 2014)

[18] Mr. And Mrs. Monias are residents of St. Theresa Point First Nation. Just before noon on January 16, 2011, they were travelling down the main road of the community on their way home from church services. They saw light grey smoke coming from the door of the Harper residence, and Mrs. Monias observed four children running from the house. She testified that they all appeared to be under the age of twelve and also appeared to be

sleepy. She and her husband both also saw a young girl approximately 13 years old standing outside the house. The girl was repeating the words “baby, baby”. They stopped their vehicle to help. There was no firefighting equipment present, but people were throwing snow on the house in an attempt to put the fire out. Both Mr. and Mrs. Monias attempted to get inside the residence through the door, but were unable to do so due to the thick black smoke and flames inside. A second door on the opposite side of the house was locked. Attempts were made to break that door in, but it appeared to be blocked from the inside.

[19] The young girl outside the residence told them which bedroom the babies were in. They tried to open the window to the bedroom but it was covered by several blankets from the inside. Ultimately the window was broken to gain access and another individual used a chainsaw to cut a hole in the side of the house. Someone was able to pull a chair with a blanket attached out through the hole in the house. Mrs. Monias described how the blanket was handed to her and that the blanket contained a baby. She said that the baby was alive but not making any sounds. She took the baby to the truck and ultimately to the nursing station. Mrs. Monias testified that the house burned very fast. By the time they learned where the babies were located, it was too late.

[20] Both Mr. and Mrs. Monias testified that in January of 2011 when a fire occurred in the community, the practice was to call a Band Constable.

[21] Mr. Monias was unsure as to whether there was a fire department in the community in January 2011, but confirmed that a fire department now exists. He knows there is a number to call to reach the fire chief. The number is written on the side of a building in the community. Mrs. Monias confirmed this and said that she knows the number to call in case of fire.

Timothy Mason (Evidence given December 17, 2014)

[22] Mr. Mason was a Band Constable for the First Nation of St. Theresa Point on January 16, 2011. At the time of the fire he was at work in the Band Constable office, which was across the road from the Leslie Harper residence. Just before noon he was alerted to the fact that there was a fire across the street. He saw black smoke coming from the residence and observed a number of individuals already present trying to put out the fire.

[23] He and two others kicked in the door facing the road, but they were not able to successfully enter the residence due to the heat and smoke.

[24] When he learned that there were children inside the residence, he tried to go back in to find them. He ultimately was able to crawl into the house through a broken window, while someone held his feet from the outside. He testified that as he was entering, he could hear crying coming from within the smoke-filled room. There was white smoke at the floor level and black smoke higher up. Mr. Mason crawled along the floor until he bumped into the bed. On the bed he found a baby, sitting upright. He took the child from the bed and handed her out the window to someone outside. Mr. Mason said that this child was quiet, and was not the baby whose cries he had heard.

[25] Mr. Mason was unable to breath at this point and was pulled out of the house through the window and into the snow outside. He noted that his hair and clothing were singed from the heat inside the house. It is at this point that a hole was cut in the side of the house with a chainsaw at the location where Mr. Mason believed he had heard the sound of a baby crying.

[26] Mr. Mason testified that shortly after, a makeshift bed was pulled from the house through the hole in the wall. The makeshift bed was made of a blanket tied between two chairs. There was a baby wrapped up in the blankets who was then taken away.

[27] Mr. Mason said that he will never forget this day. He said that he did not consider the possibility that he could have been hurt when he went into the burning house. He said that it still haunts him even now when he hears a baby cry. He is no longer a Band Constable and now works at the nursing station.

#### Constable Mark Stienwandt (Evidence given December 15, 2014)

[28] Constable Stienwandt was on duty on January 16, 2011 at the RCMP detachment on Stevenson Island, and received the report of the fire. The call came into the RCMP detachment from a community member at 12:20 p.m. There is no 911 system in St. Theresa Point.

[29] Constable Stienwandt then drove to St. Theresa Point on the winter road arriving at approximately 12:49 p.m. Both children had been removed from the residence and taken to the nursing station by the time he arrived.

He promptly notified the Office of the Fire Commissioner (OFC), who advised that they would be attending to investigate. Manitoba Hydro was also contacted and arrived to disconnect the active lines.

[30] Constable Stienwandt indicated that the house was fully engulfed in flames when he arrived. There was no fire truck present, however the community water truck was on scene. He noted however that the fire hydrant located nearby was not being used. He further indicated that the community had a fire truck at the time, but that it was not in use because it had not been properly maintained.

[31] Later that afternoon he spoke with Errabella's mother, Ashley Harper. Ms. Harper had been detained in the Band cells as she was intoxicated. When he met with her, he noted that she smelled strongly of super juice, which is a type of home brew made from fermented yeast and sugar. Ms. Harper was lodged under *The Intoxicated Persons Detention Act* for approximately three hours. The Constable confirmed that while St. Theresa Point is a "dry" reserve, intoxication by alcohol is a frequent occurrence in the community.

[32] Constable Stienwandt also interviewed witnesses including Leslie Harper and her children Angela and Martha, and testified about the content of the statements of Angela and Martha.

[33] In her statement Angela (age 13) told the officer that she had been sleeping in the bedroom with the two babies, Quallyn and Errabella that morning. She awoke to her brother and sister screaming. She saw flames and smoke and ran outside. She tried to get her nieces out of the room through the window but was unable to open it from the outside. Her sister Martha ran next door to get their mother.

[34] Martha (age 10) advised Constable Stienwandt that she woke up that morning when she heard her brother crying. There was smoke and fire as high as the ceiling. She said that they all ran outside and she ran to her Granny's to get her mother.

Constables Aaron Bailey and Erdman Wiebe (Evidence given March 17, 2014)

[35] Constables Bailey and Wiebe were tasked with attending the nursing station to take custody of Errabella's remains. The child's face and

chest were described as being very badly burned. These officers also conducted interviews and took statements from witnesses to the fire.

[36] Constable Bailey testified that in 2010 the community had a fire hall and some equipment, but that it was not always maintained. He was unsure if there was a fire truck in the community in January 2011. Both officers confirmed that there was no formal means of communication between firefighters in the community and the RCMP.

[37] Constable Bailey confirmed that there was no 911 coverage in St. Theresa Point and that emergency calls had to be made directly to the local detachment phone number. Calls coming in after hours were, and still are, rerouted to the dispatch centre in Winnipeg.

[38] The ability of the RCMP to respond to calls to St. Theresa Point is dependent on the season. During the winter months they are able to respond as required by travelling to the community on the winter road. During the summer months they must travel by boat to the community, and it is only safe to do so during daylight hours. Helicopters are also used at other times of the year, but also cannot fly at night.

[39] The RCMP historically had an office in the community of St. Theresa Point until the summer of 2010 when the building and equipment inside were damaged by incidents of mischief.

David Schafer (Evidence given on August 1, 2013 and December 18, 2014)

[40] Mr. Schafer is employed with the OFC, and as of March 2012 was the Acting Fire Commissioner of Manitoba. He has extensive training and experience which is detailed in his CV (Exhibit 9) in the areas of fire management and natural resource management. Among many other duties, Mr. Schafer has been an instructor with the OFC in the public fire protection program, operations coordinator with the OFC and has operated the Manitoba Emergency Services College which is the training branch of the OFC.

[41] An investigation into the cause of the fire on January 16, 2011 at the Harper residence was conducted by OFC investigator Rick Vandekerkhove. Mr. Schafer relayed the results of that investigation in his testimony and advised that the fire was caused by a malfunction of the wood heating system. At tab 5 of Exhibit 6 the conclusion of the investigation was that the fire was accidental in nature.

Due to the degradation found within the chimney system a failure occurred allowing the release of super heated gases from the burning of wood. The release of heat within the attic area caused the insulation and wood framing system to reach their ignition point and sustain burning. The fire within the attic area would have gone unnoticed until it broke through into the living compartment area of the residence and shortly thereafter through the roof of the house.

[42] Mr. Schafer confirmed that this could be consistent with Leslie Harper's testimony that the fire was out when she awoke in the morning.

[43] The remainder of Mr. Schafer's evidence as it relates to fire prevention, fire protection, and recommendations for St. Theresa Point will be dealt with later in this report.

#### Jack Flett (Evidence given on March 18, 2014)

[44] In January of 2011 Mr. Flett was the Band Councillor in charge of Capital and Infrastructure in St. Theresa Point. This portfolio included both housing and fire prevention. Mr. Flett advised that in 2011 the Band population was 3,952 people, 90% of whom lived on reserve. He estimated that the community needed between 800 – 900 houses to accommodate its population. At the time of his testimony there were 568 houses in the community, with each house accommodating an average of 15 – 17 people. He further advised that there were 300 families on the waiting list for houses.

[45] He explained that the First Nation receives funds to build houses and it is the Band that owns the homes not the residents. Mr. Flett said that of the existing houses, between 30 and 60 are still heated by wood stoves, and between 60 and 100 houses are heated by baseboard heaters. The remainder have furnaces.

[46] Mr. Flett described the older homes in St Theresa Point as being of poor quality, being made of low quality construction materials and having inadequate doors, windows and insulation. As a result residents often improvise to keep their home warm, which causes fire hazards.

[47] He further testified that the newer homes in the community are of much better quality. For example, a new house must now be built on a concrete pad and must have a furnace for heating. The cost to build a new house in the community is approximately \$175,000. Mr. Flett expected that the Band would be able to build only five houses in 2014.

[48] Mr. Flett advised that at the time of the fire in 2011, homes in the community heated by wood stoves were not being inspected and that the resident of the home was responsible for upkeep and maintenance of the stove and chimney. Further he said that while a Band Council Resolution existed to allow for entry into a Band owned home at anytime, it was not being used to conduct home inspections.

[49] Mr. Flett testified that in the summer of 2013, all of the homes in the community were inspected by a journeyman in the community, and all deficiencies were noted. At the time of his testimony he was still awaiting a report about those deficiencies.

[50] Moving forward, Mr. Flett explained that the Band intended to enter into tenancy agreements with residents when a new home is supplied. It is expected that the Band will take responsibility for maintenance of wood stoves in the future, and will supply smoke detectors and fire extinguishers. The resident will however be required by the tenancy agreement to maintain and use the supplied smoke detectors or be evicted.

[51] After the fire at the Harper residence, the Band Council met to determine what led to this tragedy and to determine how to prevent it from happening again. To that end, much has changed in St. Theresa Point since 2011.

[52] The community has a new fire hall and two fire trucks. There is now a volunteer fire department with a volunteer fire chief, Mr. Christopher Knott.

[53] Mr. Flett advised however that the Fire Prevention and Fire Protection budget of \$70,000 per year received from the Federal Government does not fully cover the costs of this volunteer fire department. The fire department has itself undertaken fundraising in the community to cover additional costs for equipment such as two way radios, uniforms and training.

Oscar McDougall (Evidence given on March 18, 2011)

[54] At the time of his testimony, Mr. McDougall had been the Director of Capital Projects since April 1, 2008. In this capacity he was involved with fire prevention, fire protection, home inspections and maintenance of the water plant in St. Theresa Point.

[55] Mr. McDougall testified that at the time of the fire there was no program in place to address home inspections on the First Nation and that this has not changed. In his opinion three experienced individuals would be required to conduct the necessary home inspections in the community, at a cost of \$1000 per unit. He further testified that as of the time of his evidence there was no organizational plan in existence regarding buildings and housing.

[56] Mr. McDougall is in charge of the water plant in St. Theresa Point. There is only one plant that serves the entire community, and only half of the houses in the community have running water. He explained that the farther a residence is from the plant, the lower the water pressure it receives.

[57] He explained that when all of the houses in the community have water services the available pressure from the one plant will be affected. In his view the capacity of the water plant will have to be doubled.

[58] Mr. McDougall testified that the Federal Government allots St. Theresa Point two million dollars per year to deal with minor capital projects. This budget line is meant to deal with the upkeep of existing assets, with only one million being allotted to housing issues.

[59] It is Mr. McDougall's opinion that the community will need 900 houses over the next twenty years to accommodate their needs. In the last year the Band was able to build five houses.

[60] Mr. McDougall advised that the community had a fire hall in the past, but that it burned down in 2009, along with the fire truck. Insurance covered the loss of the building, but not the loss of the truck. The fire hall was rebuilt in 2010 and a new/used truck was purchased in late 2010.

[61] The truck that was purchased had some issues because it was used, and was taken out of the community for repairs during the winter of 2011. As a result they were required to use the water truck to deal with the fire at the Harper residence in January of 2011. In fact, it was Mr. McDougall that drove the water truck to the Harper residence that day.

[62] Mr. McDougall said that at the time of the fire there was no official fire department, but some planning was underway. He had asked Christopher Knott to be the fire chief, and noted that Mr. Knott did not have to be asked twice to take on a job in the community.

[63] Mr. McDougall indicated that he had been in contact with Ivan Mason of the Island Lake Tribal Council, regarding the new fire department in St. Theresa Point, but that there had been difficulty in making and maintaining that contact.

[64] To date the funding to get the Fire Department up and running in terms of equipment, uniforms and a water pump to be used in the lake, has come from the current fire budget of \$70,000.

[65] For the 2014/15 year the Band had not identified any further equipment needed. They will however need to maintain the fire truck and have fuel readily available. The fire department will also have to have the old truck repaired and brought back to the community on the next winter road.

[66] Mr. McDougall also advised that after the fire in 2011 the community received a donation of a fire truck from Prince Edward Island. Unfortunately the truck was of a “vintage” nature and parts were not available for repairs.

[67] In his view the one fire truck that the community has is not adequate to meet the community’s needs. They do however have five water trucks which have been modified to provide good water pressure.

[68] In terms of the road infrastructure to support these trucks, Mr. McDougall said that there are no real roads in the community and that they are very expensive to maintain and are usually just surfaced with crushed gravel, which impacts the overall longevity of equipment.

#### Christopher Knott (Evidence given on March 19, 2014)

[69] Mr. Knott is the water and waste plant manager in St. Theresa Point. In October of 2010 he also took on the position of volunteer fire chief in addition to his regular job. He has been a firefighter since 1987, when the original fire department existed in the community. The original fire department only lasted until 1992 when funding became an issue. Mr. Knott confirmed that between 1992 and 2010 there was no fire department in St. Theresa Point. In 2010 when he became fire chief the plans for a new fire hall were already underway, but the community was still relying on the water trucks instead of a fire truck.

[70] Mr. Knott took his firefighting training in Brandon, through the Office of the Fire Commissioner (OFC) and also through Ivan Mason of the Island Lake Tribal Council.

[71] He further indicated that the community of St. Theresa Point is also associated with the Manitoba Association of Native Firefighters (MANFF).

[72] At the time of his testimony, Mr. Knott said that there was no written procedure or operating guidelines respecting fire protection for the community, and there was no written fire protection plan. He confirmed his awareness that such a plan was being worked on with the assistance of MANFF. He also said that although the community had not made contact with the OFC as a resource that they would do so. He further testified that there was no fire prevention program in existence in the community, and he was not aware that the OFC provided public education regarding fire prevention or that they also provide a five day training course in public education with materials for distribution.

[73] Mr. Knott testified that there is a position of fire protection officer existing in the community, and that Colin Manoakesick, who is the deputy fire chief, will do home inspections to look for fire hazards and work with the housing manager, Shane Flett, to address them. Mr. Manoakesick has received some firefighting training but does not have his full Level I designation.

[74] Mr. Knott indicated that the firefighting budget for St. Theresa Point is \$65,000 - \$70,000 and is administered by "Capital Projects". He said that the entire budget goes to equipment and training.

[75] Mr. Knott testified that his fire department operates on what he referred to as an "all hazards" response basis and that they now have training and equipment enabling them to enter buildings to rescue people, as well as the training to respond to hazardous material situations. They have also had training at the airport to respond to crash landings and have had CPR, first aid training and certification on an annual basis. They are not however trained in water or ground rescue.

[76] The staff of the St. Theresa Point fire department has a complement of 21 members; Mr. Knott as the chief, two deputy chiefs, two fire truck drivers and two teams of firefighters. In addition there are three positions to deal with administrative matters and dispatch functions. The fire hall is to

be staffed twenty four hours a day. All staff attend regular meetings. All of the firefighters are identified within the community by virtue of their uniforms. A Band Council Resolution exists recognizing that if volunteer firefighters are called away from their jobs to fight a fire, they will still be paid. The resolution also gives the fire chief the authority to compel people in the community to assist the fire department when a fire occurs.

[77] In case of fire, personnel are contacted by using eight mobile radio units which are distributed among the personnel to receive calls from the dispatcher. There are eight to ten firefighters on call at a time, working four to eight hour shifts. When a fire occurs, Mr. Knott as chief is briefed by the deputy chief on duty and takes attendance of the firefighters present.

[78] At the time of his testimony none of the twenty one firefighters had achieved their Level I training. Mr. Knott indicated that he needed to update his Level I status as well.

[79] In terms of equipment, Mr. Knott said that their current fire truck is on loan. They have complete gear and all of the other equipment that they require, including oxygen tanks and self contained breathing apparatus.

[80] To access water the fire department uses the community water supply. There are fire hydrants on the main road of the reserve and in the north end of the community. Mr. Knott said that for firefighting purposes the water pressure is 90% adequate.

[81] Regarding the prevalence of fires in St. Theresa Point, Mr. Knott said that between March and November of 2013 there were thirteen or fourteen house fires in the community and one hundred and six fires in total.

Ivan Mason (Evidence given on December 17, 2014)

[82] Mr. Mason is employed by the Island Lake Tribal Council (ILTC) in the capacity of emergency services officer, and lives in St. Theresa Point. In this position he acts in an advisory capacity, working with the Island Lake First Nations to develop emergency procedures surrounding fire safety and protection. In this role he also consults with the OFC and Manitoba Conservation and sometimes MANFF. At the time of his testimony he had been on leave from this position for eleven months. He indicated that during his leave, Calvin Mason had been filling in for him, but was now also on leave.

[83] In terms of his training, Mr. Mason advised that he has his Level III firefighter training as well as officer level training. He has not however renewed his Level III training, so it is not current. With this training, he could do fire prevention inspections and provide emergency services. His role with St. Theresa Point has been to identify areas of concern, offer advice to the fire department and provide some training. He is also a volunteer firefighter in the community. In this capacity he responded to the fire on January 16, 2011 at the Harper residence and was involved in removing the infant Errabella from the burning house. He confirmed that the community's fire truck was not operational at that time, as it was frozen due to improper storage conditions.

[84] Mr. Mason testified that he makes a point of responding to all fire calls in St. Theresa Point because he is concerned that the fire chief and his firefighters lack formal training. He feels that he takes on the role of officer at the scene and provides direction. After each fire that they respond to, a debriefing is held with those who attended the call to discuss any issues or concerns that arose during the call.

[85] After the fire on January 16, 2011, Mr. Mason, in his advisory role with ILTC, drafted a letter to Chief and Council of St. Theresa Point with several recommendations. He recommended that obtaining an operational fire truck should be a priority, and that volunteer firefighters receive training. Further, he recommended that the community put in a notification system with portable radios for firefighters. He had discussions with the First Nation regarding quotes and negotiations to implement these recommendations for the required purchases, and ultimately left it with the First Nation to take action.

[86] Mr. Mason was also involved in responding to the Fire Protection Survey (Exhibit 12), not only respecting St. Theresa Point, but all four of the Island Lake communities. The survey identified a number of areas of concern with respect to the community of St. Theresa Point. Mr. Mason said that the funding provided for fire protection may not be adequate. He also pointed out however, that the funding received may not always be used in the best possible way. By way of example, he indicated that the amount of money required to purchase a specific item like a fire truck may be dependent on the winter road season. It may be necessary to pay more to get such an item into the community on short notice while the winter road is passable rather than wait for the next opportunity to do so the following year.

[87] When Mr. Mason returns to work from his leave he will assist with the fire protection plan for St. Theresa Point.

[88] At the end of his evidence Mr. Mason made several recommendations.

[89] Regarding equipment for the fire department he suggested that because the community is so spread out, they would benefit from having two fire trucks, and a second station in the south end for the second truck. As there are no fire hydrants in the south end, the truck would have to hook up to the water truck for a source of water.

[90] In terms of training, Mr. Mason's view was that the firefighters should all have Level I training provided by the OFC in Brandon. He further indicated that he was aware that MANFF had provided some informal training to the firefighters. This training however was not a certificate program equivalent to Level I. He had concerns about the cost of this training relative to its actual quality. Further, he felt that in addition to the Level I training, the fire chief should also have officer training.

[91] He also recommended that those that drive the fire trucks have Class IV licences, rather than what he referred to as the "crash course" that they had received.

[92] Mr. Mason recommended that regular home inspections be conducted in St. Theresa Point to ensure that smoke detectors are in proper working order. He indicated that many residents remove the batteries or disable the breaker of hard-wired detectors.

[93] He also recommended that a review be done in homes with new tenants to ensure that they have an understanding of how their heating system works and fire safety issues. He also felt that the community could benefit from public education sessions about fire safety, with the same type of sessions in the school for children. Mr Mason was aware of the available resources from the OFC and indicated a desire to continue regular meetings with them about available education.

[94] Finally, Mr. Mason recommended that the Fire Protection Survey be completed on a regular basis, and that the community be called upon to justify the use of funding to make sure that resources are being used appropriately and effectively.

[95] Mr. Mason concluded his testimony by commenting that the current fire department in St. Theresa Point is a great improvement over what existed in 2011. The tragic events of January 2011, in his view, kick started the community's awareness and interest in making needed improvements.

Chief David McDougall (Evidence given on March 18, 2014 and December 16, 2014)

[96] Mr. McDougall was the Chief in St. Theresa Point in January 2011 at the time of the death of Errabella Angel Harper. He left office on March 6, 2012 and was re-elected on March 7, 2014. He had been back in office ten days at the time he first testified. At the time he left office in 2012, he said the new fire department and fire hall were in the process of being set up, but that in 2011 at the time of this fire there was no active fire department.

[97] Further, he said that wood stoves were not being monitored or inspected, and there was no other program to inspect for other hazards. With respect to the Leslie Harper residence, Chief McDougall testified that it had long been occupied by an elderly couple (presumably Ms. Harper's parents). When they received a new trailer from the Band, the house became occupied by various family members. He stated that because Ms. Harper had married someone from the community of Wasagamack, she was officially attached to that First Nation and not to St. Theresa Point. He said that in terms of assistance, she had "fallen through the cracks", and could not say why she had received no financial support from St. Theresa Point after the fire.

[98] In terms of future inspection and monitoring of wood stoves in the community, Chief McDougall said he could not commit to do this. He indicated that there were people capable of doing the inspection and monitoring in the community but that they did not have sufficient resources to make it feasible. He further confirmed that there is no ongoing inspection program with respect to other hazards within community homes.

[99] Chief McDougall testified that in his view, the pressure of the water supply in the community was inadequate for firefighting and that they did not have the proper fittings to use the fire hydrants.

[100] While Chief McDougall testified that he was committed to creating a fire protection plan he confirmed that no such written plan existed. He did,

however, say that the band has proposed operating guidelines for the fire department which will become part of a band resolution.

[101] He advised that he is open to collaboration with and assistance from the OFC, but only if the community has resources to do so.

[102] Chief McDougall confirmed that the Band had no fire prevention education plan in place and that they have to do more in this regard.

[103] Chief McDougall testified that the community needed 300 new houses to “catch up” and then twenty to thirty new houses each year to replace houses that are no longer habitable, and to address the growth in population in St. Theresa Point. Although not top quality, he advised that each housing unit would cost \$170,000.00. It is very expensive to build a house in St. Theresa Point due to issues accessing water, hydro and the necessity to build a concrete foundation. He said that a committee exists to determine who will receive a new Band constructed house, and that many factors are considered.

[104] On the issue of maintaining houses on the reserve, Chief McDougall discussed the impact of historical practices. Traditionally their ancestors did not live in permanent dwelling structures. A family would ordinarily only stay in a log cabin structure for a year or so. There was no future orientation as it related to housing maintenance. Chief McDougall in describing the current mindset offered the view that “learned helplessness” had set in. He confirmed that skills and training are also required in this area.

[105] Chief McDougall was aware of the First Nations Fire Protection Survey. He believed that Mr. Knott had completed it with support from Ivan Mason of ILTC. In terms of a fire protection plan for the community, Chief McDougall said it was still in draft form and was being worked on by a committee. It still needed to be reviewed by Chief and Council. He indicated that the review would occur by the end of January or February of 2015.

[106] For the 2014/15 fiscal year, Chief McDougall testified that the fire protection budget would be \$77,960.00, plus funds in the amount of \$70,000 from Band based capital. He testified that in 2014 the fire budget was used to repair the leased fire truck (the community owned truck was out of the community being repaired, so it was necessary to lease a second truck). In terms of maintenance of fire trucks, Chief McDougall testified that

they do not have a certified mechanic living in the community, so they either have to fly one in or send the truck out for maintenance. The budget was further used for the purchase of firefighting gear, hoses and other equipment, the maintenance of fire hydrants and the fire station, including hydro and phone service. Budget monies were also used to establish a 24-hour emergency phone service with a dedicated phone number and paid dispatchers.

[107] In retrospect, he was not able to say what the fire budget would have been used for in 2011 at the time of the fire at Ms. Harper's residence, because they did not have a fire hall or fire truck to maintain or a fire department to outfit.

[108] Chief McDougall said that he is committed to expanding and strengthening the fire department in St Theresa Point. In terms of community education, he did not have information about what was being done, but confirmed that he was open to working with the OFC to deliver educational programming. Further he committed to improving media delivery on this topic through radio, TV and their website. He was aware that Ivan Mason of ILTC was also available to assist the Band but did not know if he had been contacted.

[109] Although Chief McDougall agreed that it should be part of a fire prevention plan, he opined that having smoke detectors in all residences in the community would be impractical in older homes relying on wood stoves for heat, and where there were no fume hoods on stoves.

[110] Respecting wood stoves, he advised that some residences still rely on them for heat, and advised that they are removed from the houses in the summer months to create additional living space and reinstalled for the winter months. He confirmed that there are no inspections done and no regulations enforced. He advised that in general there is some resistance from residents to allowing people into their homes as they are embarrassed by their living circumstances.

[111] In terms of establishing a home inspection program, Chief McDougall testified that if inspected, most homes in St. Theresa Point would not only not pass an inspection, but would be condemned. In short, the whole community would have to relocate. He reiterated that 341 new homes are presently required and that remediation of existing homes would be very costly.

[112] Chief McDougall said that while he is happy with the improvements that have been made in St. Theresa Point since this fire, they have not been able to do everything that they would like to do. He indicated that the Band intended to be more diligent going forward with a rental regime and acknowledged that there are certain responsibilities that the Band has that they have not been fulfilling. Chief McDougall concluded his evidence by saying that he feels like the community is on a positive trajectory and that they must make a better future for their children and grandchildren.

Jacques Marion (Evidence given on December 18, 2014)

[113] Mr. Marion is an accountant specializing in intervention services for the Government of Canada and First Nations. He was involved with St. Theresa Point First Nation as co-manager from February 2009 until November 2012 when he was released from service by the First Nation. Mr. Marion provided information about the fire protection budget and expenditures for the 2010/11 and 2011/12 fiscal years.

[114] In the fiscal year 2010/11 the fire protection budget provided by Aboriginal Affairs and Northern Development Canada (AANDC) was \$69,400.00. That figure increase in the 2011/12 fiscal year to \$70,600.00. In both years the Band's expenditures relating to fire protection exceeded this budget line. He confirmed that all expenditures made were appropriate and related to the maintenance of equipment, training, transportation and shipping.

[115] Mr. Marion testified that in the 2010/11 fiscal year \$14,328.00 was spent on wages and training, \$2,536.00 was spent on fuel and oil, and \$17,444.00 was spent on equipment.

[116] In the 2011/12 fiscal year \$35,715.00 was spent on training, \$3,052.00 was spent on fuel and oil and \$22,801.00 on equipment.

[117] Additional costs in both years were covered by the operations and maintenance budget. He cited the maintenance of buildings and water lines as examples.

[118] Mr. Marion clarified that the MANFF training referred to by Ivan Mason was not paid for out of the fire protection budget in the 2011/12 fiscal year. If that expenditure was made by the First Nation it came from another source of funds.

[119] As for wages, Mr. Marion explained that the funding provided for fire protection was not sufficient to cover permanent wages for firefighters. He did indicate however that stipends or honoraria for specific tasks are permissible expenditures from this budget line. This fact was contrary to the understanding of the First Nation.

[120] Mr. Marion testified that the purchase of a second fire truck could not be accommodated from the fire protection budget line, and would have to come from Band based capital funding. He pointed out that the purchase of a fire truck would be the same level of expenditure as one house. He did add however that AANDC has in the past purchased essential service vehicles for a First Nation without charge, but he was unsure of the process for doing so.

David Schafer (Evidence given on August 1, 2013 and December 18, 2014) continued.

[121] Mr. Schafer's qualifications and experience were set out at paragraph 40 of this report. Mr. Schafer prepared a report entitled, Responses and Proposed Recommendations to the Inquest into the Fire Deaths at St. Theresa Point First Nation and God's Lake First Nation. (It has been marked twice in these proceedings as Exhibits 6 and 10).

[122] He gave testimony about the Regulations that are applicable to both house fires that are the subject of this Inquest. While there was initially some confusion as to whether Provincial Codes applied to First Nation communities, Mr. Schafer clarified that it is the National Fire Code (the Code) that is applicable to both residences. The Code requires that there be a functioning smoke detector in every single storey dwelling in between the sleeping areas and the rest of the living space.

[123] For both the Harper residence in St. Theresa Point, and the James residence in God's Lake a battery-operated smoke detector would have met this requirement because they are older homes. Newly constructed homes require hard-wired smoke detectors according to the National Building Code.

[124] Mr. Schafer testified that it is the responsibility of the home owner, their agent or representative (in this case the First Nation) to ensure compliance with the Code. If a smoke detector is not working the

expectation would be that upon notification by the tenant the owner would address the issue, including supplying a new battery.

[125] The Code does not require that houses of this age have carbon monoxide detectors.

[126] With respect to wood stoves, the Code deals specifically with chimneys and flue pipes. Section 2.6 requires their annual inspection, cleaning, replacement and repair.

[127] On a First Nation, the Band Council could pass a resolution or a by-law that would provide for a higher, more stringent level of fire protection if they chose to. Mr. Schafer also believes that a Band could pass a resolution or by-law allowing for a lower level of protection; however he was not aware of this ever having been done.

[128] There is no requirement in the Code that single family dwellings be inspected. He also pointed out that this does not preclude a municipality or First Nation from passing a by-law or resolution requiring mandatory home inspections. By way of example, he noted that the First Nation community of God's River requires this on a regular basis.

[129] Mr. Schafer testified that he understood the reservations and concerns voiced by both Chiefs of the communities about implementing home inspections and the consequences that may result from them. He clarified that the kind of inspection he intended was of a very basic kind, meant to ensure smoke detectors were in place and operating, and that any fire hazards such as blocked exits were addressed. He acknowledged that this type of inspection program required both a commitment from leaders and "buy in" from community members to allow inspectors into their private homes.

[130] In his report, Mr. Schafer also addressed the provision of adequate firefighting equipment and personnel in communities like St. Theresa Point and God's Lake. He said that First Nation communities face many of the same issues as provincial municipalities of similar size with similar levels of funding. In fact, some very small communities in Manitoba do not have active fire departments at all, and put their available resources into fire prevention measures.

[131] Mr. Schafer set out the three possible levels of firefighting service that a community can provide.

[132] The lowest level of service is “defensive” firefighting. At this level the department does not have the equipment and training necessary to offensively attack a fire by entering the building to suppress it and rescue trapped persons. In this model, fire suppression is restricted to fighting fires from outside the building and ensuring that fires do not spread to other structures. Mr. Schafer said that many communities elect to provide only this level of service for financial reasons.

[133] The next level of service is “offensive” firefighting, in which firefighters are trained to actually enter a building in order to make rescues. This model is more expensive to support in terms of personnel, training and equipment.

[134] The final and highest level of firefighting is “all hazards” service. This incorporates all the objectives of the previous two levels but also provides the capability of taking on technical rescues, and hazardous material responses.

[135] In his evidence, Mr. Schafer also addressed the minimum requirements to establish a community fire department. He emphasized that a basic requirement for all three levels of firefighting is an adequate water supply, with a pressure of 3000 litres per minute. Whether this is sourced from hydrants, or fire and water trucks, or natural sources, an adequate level of pressure is important.

[136] All three levels of service also require a communication system such as a dedicated paging system capable of notifying firefighters of an incident. Further, radio communication for the firefighters to talk to each other during an incident is also required for offensive firefighting.

[137] Mr. Schafer testified that having a fire truck is ideal for all levels of firefighting and is certainly required for “offensive” and “all hazards” service. He noted that portable pumps and other water sources like water trucks can also be used effectively in defensive firefighting if there is an accessible water source nearby.

[138] All three levels of firefighting service require protective equipment or “turnout gear”. This gear should be individualized for each firefighter; it should not be shared. In “offensive” and “all hazards” service, breathing apparatus, which is very expensive, is also required for at least some of the team.

[139] When setting up a fire department, Mr. Schafer testified that a number of essentials require consideration.

[140] To start, the community needs to establish their authority to actually operate the fire department. In the case of a First Nation that would be by Band by-law or resolution giving the fire department the authority to operate and identify the level of service that the community is committed to and financially able to provide.

[141] The community should establish the general categories of support in a budget document. The budget should set out operating funds for the purchase of equipment. It should also identify funds for wages, as most volunteer fire department members are paid for the time they are required to spend responding to calls and taking training. Funds should be identified for training as well as for repair and maintenance of equipment.

[142] Mr. Schafer testified that a fire department also needs sufficient staff to address the level of service that they have committed to which varies depending on the level of service to be provided.

[143] To provide “defensive” firefighting, a minimum of four firefighters is required to respond to a call for service, with the ideal number being six or more. Each firefighter should have a Manitoba Level I firefighting certificate. This certificate entails approximately 120 – 140 hours of time to complete 22 blocks of training. Mr. Schafer testified, however, that even completing 50% of the course would allow a “defensive” service to operate safely. This training could be delivered right in the community.

[144] “Offensive” service requires a minimum of six firefighters to respond to a call, with the preferable number being between eight and twelve. Complete Level I certificate training would be required for all firefighters in this scenario. As indicated, some of this training could be done right in the community, while part of it would require travel to a larger centre and the use of a facility to complete. The costs of this level of training can be significant, including instructor travel/accommodations, candidate travel/accommodations and the wages/travel/accommodation of having an evaluator attend for the certification process would also be required. In Mr. Schafer’s estimation the cost for “offensive” training is double for that of “defensive”.

[145] Mr. Schafer touched upon some of the services and resources that the OFC will provide at no cost to a community to assist them with their fire departments and fire safety programming.

[146] For instance, while the community would be required to cover the cost of travel to and from the community and accommodation for the instructor, the actual delivery of the training programming is provided at no cost. With increased training the ultimate goal would be for the community departments to deliver their own training.

[147] The OFC also has a fire and lay safety educator program, which allows for an individual to learn the skills required to deliver fire education in their home community. Again, the community would be required to pay for travel and accommodations for the individual to attend, but there is no cost for the course itself. Free public education materials such as pamphlets, posters and videos are also available upon request.

[148] The OFC will also come to a community to provide other presentations and workshops at no cost.

[149] An online newsletter regarding fire prevention is also distributed to all Manitoba fire services and partners, and public service announcements are available for radio stations to use during fire prevention week.

[150] During the winter road months the travelling fire safety trailer can also attend to remote communities as a resource.

[151] Mr. Schafer stressed that preparing a fire protection plan is not just about having a written document. It is also about program development, which may take a long time to perfect. This requires strong community leadership at the municipal or band level, as well as strong leadership from the fire chief to create an environment in which the community is proud of the fire department and want to be involved.

[152] Good leadership requires dedication and strong organizational skills, as well as a visible presence in the community that inspires others to become involved.

[153] Mr. Schafer feels that it is the role of the Tribal Council fire safety officer to assist Chief and Council of a First Nation to accomplish these big picture goals and confirmed that the OFC is also committed to being involved.

[154] At Tab 10 of Mr. Schafer's report is a Memorandum of Understanding (MOU) that was entered into after the fatal house fires in St. Theresa Point and God's Lake, dated June 29, 2011. The MOU was to address a Fire Prevention and Protection Assessment Program for First Nation Communities, and was entered into by the Government of Manitoba and the Assembly of Manitoba Chiefs.

[155] The MOU acknowledges that the loss of life and property in First Nation communities is significantly elevated as compared to other Canadian communities.

[156] The signatories to the MOU agreed to collaborate on a program to determine the current state of fire protection in each First Nation community in Manitoba in order to make a subsequent determination of precisely what steps and resources are required to establish an acceptable level of fire protection for each community. They further agreed to use a Fire Protection Hazard Analysis and Risk Assessment tool developed by the OFC to do so. This involves the "First Nations Fire Protection Survey" referred to by previous witnesses.

[157] Mr. Tim Langevin, who is an experienced member of a municipal fire service was hired by the OFC to carry out the goals of the MOU. He attended to 61 of 63 First Nation communities and conducted an assessment of each community using the survey, and prepared a final report.

[158] There has also been a working group established which includes representatives of the Province of Manitoba, Assembly of Manitoba Chiefs, Aboriginal Affairs and Northern Development Canada, Manitoba Association of Firefighters, Southern Chiefs Organization and Manitoba Keewatinowi Okimakinak. The group continues to meet quarterly and now includes the Tribal Council fire safety officers as well. The OFC provides financial support for attendance at these quarterly meetings.

[159] Mr. Schafer's recommendations **which I adopt** with respect to both communities involved in this Inquest, St. Theresa Point and God's Lake, can be found at page 15 of his report (Exhibit 6) and are summarized as follows

That where possible, provincial and federal fire protection programs be aligned to reduce duplication of effort, and improve service delivery. As an example, endeavoring to coordinate training programs and public

education initiatives offered in provincial northern affairs and First Nation communities to benefit both communities.

That the Manitoba OFC endeavor to develop a closer working relationship with federal representatives as well as Tribal Councils in an effort to assist First Nations Communities to prepare formal fire protection plans, having a strong emphasis in the area of home fire safety and residential fire inspection programs.

That the Manitoba OFC endeavor to work with federal representatives to ensure that a consistent level of training and fire prevention services are provided to First Nation communities and Manitoba Municipal Fire services.

That the level of support provided by the Manitoba OFC to First Nation communities in Manitoba be delivered at a level consistent with that provided to the rest of Manitoba Municipal Fire services.

[160] Exhibit 14 is the Report on the First Nation Community Fire Prevention and Fire Protection Assessment, 2012. This report should be read in conjunction with the MOU of June 29, 2011 that called for it. The report is comprehensive and addresses the concerns and challenges that have been identified.

[161] For the preparation of the report, the Province of Manitoba provided a Program Officer who was hired in December, 2012 to visit each First Nation community to conduct a fire protection hazard analysis and risk assessment using a survey tool developed by the OFC.

[162] Communities were visited between January and September 2012. When possible the Program Officer was accompanied by the community's fire safety officer of the respective Tribal Council.

[163] The assessment tool used was a seventy question survey regarding each community's status on a variety of fire prevention and protection criteria in the areas of governance, emergency response, fire protection programs, demographics and community access.

[164] The report provides a general summary in these areas, but does not contain specific statistics about individual communities.

[165] The report concludes that overall there is a shortfall in fire protection services in Manitoba First Nation communities when compared to most non First Nation communities. This gap applies to all areas including planning,

infrastructure and equipment, staffing, training, financial resources, inspections and public education.

[166] Some notable results include the fact that 93% of communities did not have a written fire protection plan.

[167] In 89% of the communities they did not have a written by-law or Band council resolution respecting fire protection and 80% of the communities did not have a fire protection officer.

[168] Only 15% of fire departments had written operating guidelines and most communities did not have a 911 or local dispatch system.

[169] In 28% of the communities they had no fire truck, 39% had no fire hall, and there was a low percentage of communities overall that had adequate equipment or gear.

[170] There were 11% of the communities who had a fire and life safety education program in place, and 18% of the communities had fire prevention inspection programs.

[171] There are 72% of First Nation communities within twenty minutes response time of an adjacent community with a fire department.

[172] The Report makes both short term and long term recommendations for improving the status of fire prevention and protection in First Nation communities in Manitoba. **I adopt these recommendations.**

[173] Nine short term recommendations: to be completed within six to twelve months are found at page 18 of Exhibit 14. They are as follows;

- 1) That the roles and responsibilities of First Nation Communities, Tribal Councils, MANFF, AANDC, and other relevant stakeholders with respect to fire protection are clearly identified, documented, and communicated.
- 2) That support for the role of Tribal Councils and their FSOs is increased, including ensuring that they are adequately funded to provide fire support services to their member communities.
- 3) That more detailed documentation of the rationale or formula for the amount of fire protection funding provided to First Nations

communities, Tribal Councils, and MANFF is made available to all parties.

- 4) That all First Nation communities work with their respective Tribal Council or MANFF to prepare a formal fire protection plan. The fire protection plan should provide for:
  - a. A public education program
  - b. A fire prevention program
  - c. An incident management system
  - d. Fire department operating guidelines
  - e. A training plan
  - f. A records management system.
- 5) That fire safety inspections are made a priority, and that responsibilities for conducting inspections are clearly set out. This should include public, commercial, and residential building/home inspections.
- 6) That First Nation community leaders take steps to ensure that proper resources are allocated towards fire protection services.
- 7) That a review of the system for reporting of fires and fire losses on Manitoba First Nation communities is initiated.
- 8) That all First Nation communities pursue formal written mutual aid or fire protection agreements with adjacent communities where the opportunity presents itself.
- 9) That AANDC publish a status update on its “First Nations Fire Protection Strategy, 2010-2015”.

[174] There are two long term recommendations which will take longer than twelve months to accomplish. They are as follows:

- 1) That 911 service or local dispatch service is established in all First Nation communities, with 911 service being the ultimate goal.
- 2) That a model similar to that used by Manitoba Aboriginal and Northern Affairs (ANA) for funding fire protection in ANA communities should be implemented. The model should:

- a. Divide communities into service groups based on capacity and capabilities. For example,
  - i. Fire prevention and public education only
  - ii. Fire prevention and public education + defensive fire mandate
  - iii. Fire prevention and public education + offensive mandate.
- b. Specify the method by which communities will be sorted into groups, and what the requirements are to move from one group to another.
- c. For each service level, set out minimum requirements for staffing, training, infrastructure and equipment.
- d. Specify funds to be spent each year on ongoing staffing, training and equipment maintenance.

[175] The ultimate goal of the recommendations adopted from the reports of Mr. Schafer, the First Nation Community Fire Prevention and Fire Protection Assessment and the additional recommendations of the Inquest that follow, is the creation of a comprehensive strategy involving all levels of government, Tribal Councils and community Chief and Councils to address fire prevention and firefighting capacity at the community level for all First Nations in Manitoba. The strategy should provide for equal emphasis on fire safety education/prevention and fire protection services.

[176] In addition to the adopted recommendations of Mr. Schafer and the adopted recommendations of the First Nation Community Fire Prevention and Fire Protection Assessment **It is the recommendation of the Inquest** that community Chief and Council in St. Theresa Point First Nation:

1. Prepare a written fire protection plan which formalizes the level of service to be provided to the community, and which addresses the community's commitment to public education, fire prevention programming and an annual home inspection program.
2. Commit to provide the required ongoing training for community firefighters, with a minimum of Level 1 training and officer training for the position of fire chief.

3. Create a voluntary position of community fire safety coordinator and provide funding support for this individual to receive the Fire and Life Safety Educator training course offered by the OFC.
4. Provide support to this position in accessing available public education materials from the OFC and in the set up of a culturally sensitive public education program in the community.
5. Give consideration to an honorarium for the volunteer fire chief, firefighters and community fire safety coordinator.
6. Support the education training and retention of a certified electrician, carpenters and other trades people in the community to perform home fire safety inspections and conduct required repairs.

**It is the recommendation of the Inquest** that the St. Theresa Point fire chief:

1. Prepare written operating guidelines for the community fire department.
2. Prepare a long term training plan for all staff, as well as a schedule of required maintenance for all equipment, vehicles and buildings.
3. Provide written incident reports to the Island Lake Tribal Council fire safety officer and the OFC of every fire occurrence in the community.

**It is the recommendation of the Inquest** that the Island Lake Tribal Council:

1. Continue to retain the position of fire safety officer.
2. Commit to increased consultation and support with the community safety coordinator, fire chief and Chief and Council in the areas of public education programming, fire safety home inspections, fire department staff training and equipment maintenance.
3. Train individuals in the community of God's Lake to perform basic annual home inspections with a particular emphasis on safe home

heating in the winter months and proper maintenance of smoke alarms.

**It is the recommendation of the Inquest** that the Province of Manitoba Office of the Fire Commissioner:

1. Develop a close working relationship with federal representatives as well as Tribal Councils to develop and implement comprehensive fire protection plans for all First Nation communities.
2. Continue to provide educational resources and firefighting training in a manner that best addresses the geographical constraints and challenges faced by first nation communities in Manitoba.

Dated at the City of Winnipeg, in Manitoba, this 30<sup>th</sup> day of October, 2015.

“Original signed by Judge Tracey Lord”

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Judge Tracey Lord

## EXHIBITS for the Inquest Report of Judge Tracey Lord into the death of Errabella Angel Harper

Exhibit Number	Exhibit Description
1	July 7, 2013 – T. Mroz – letter of CME calling the inquest dated June 20, 2011
2	Folder of documents Section 1: A to C
3	Letter from the CME calling the inquest dated June 21, 2011 (4 pages)
4	Folder of Documents Section 11: D to G
5	Resume of David Schafer, Fire Commissioner of Manitoba, Manitoba Office of the Fire Commissioner (3 Pages)
6	Responses and Proposed Recommendations to the Inquest into the Fire Deaths at St. Theresa Point First Nation and God's Lake First Nation prepared by the Office of the Fire Commission – July 10, 2013.
7	July 31, 2013 – T. Mroz – Seven Week Training Proposal submitted by Keewatin Tribal Counsel
8	Two Week Training Proposal submitted by Keewatin Tribal Counsel
9	August 1, 2013 – T. Mroz - David K. Schafer credentials
10	Responses and proposed recommendations to the inquest into the Fire Deaths at St. Theresa Point First Nation and God's Lake First Nation.
11	March 17, 2014 – T. Mroz – Letter dated June 20, 2011 from A. Balachandra
12	December 16, 2014 – T. Penner - First Nations Fire Protection Survey
13	St. Theresa Point First Nation Notice of Appointment Band Council Resolution.
14	Assembly of Manitoba Chiefs and the Manitoba Office of the Fire Commissioner Report on the First Nation Community Fire Prevention and Fire Protection Assessment 2012
15	December 18, 2014 – A. Pilcher – Letter from Collins Barrow HMA LLP (Michael P. Angers) Re: God's Lake First Nations – Fire Protection and Housing Funding.

