NSHRC BOARD OF INQUIRY

FILE #51000-30-H14-0418

IN THE MATTER OF: THE *NOVA SCOTIA HUMAN RIGHTS ACT*

\- and -

IN THE MATTER OF:

BETH MACLEAN, SHEILA LIVINGSTONE, JOSEPH DELANEY AND THE DISABILITY RIGHTS COALITION

COMPLAINANTS

– versus –

PROVINCE OF NOVA SCOTIA

RESPONDENT

HEARING

COUNSEL: Dorianne Mullin and Kevin Kindred for the Province of Nova Scotia

Kendrick Douglas and Kimberly Franklin, counsel for the Human Rights Commission

Walter Thompson, Q.C., Board Chair

Donna Franey and Claire McNeil, with Dalhousie Legal Aid Service for the Disability Rights Coalition

Vince Calderhead and Katrin MacPhee, Pink Larkin, counsel for Sheila Livingstone, Joseph Delaney and Beth MacLean

TRANSCRIPT

This is the evidence in a Nova Scotia Human Rights Board of Inquiry matter of Beth MacLean et al v. PNS et al the Province of Nova Scotia, held in Halifax, in the Province of Nova Scotia on August 9, 2018.

Recorded by:

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AUGUST 9, 2018 AT 9:30 A.M.

NOVA SCOTIA HUMAN RIGHTS COMMISSION

BOARD OF INQUIRY

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THE CHAIR: We ready?

MR. KINDRED: I think so. I'm not sure if there's anything preliminary to talk about. We've made some progress towards scheduling further dates, but I think we'll finalize that tomorrow. I see nothing from my friends. I think we're ready to call our witness for the day.

THE CHAIR: Okay, very good.

MR. KINDRED: So, our next witness is, Lynn Hartwell. Lynn, take the stand. And – and, before we started I handed around the document which I think will be Exhibit #69.

EXHIBIT 1 ENTERED AND MARKED – CURRICULUM VITAE OF MS. HARTWELL

THE CHAIR: Okay, Ms. Hartwell, let's put you under oath or affirmation. You may choose to pick up the Bible and swear, or simply solemnly affirm, whichever you like.

MS. HARTWELL: I'll affirm.

THE CHAIR: In this matter do you solemnly affirm that you will tell the truth, the whole truth, and nothing but the truth?

MS. HARTWELL: I do.

THE CHAIR: Thank you.

AUGUST 9, 2018 AT 9:35 A.M.

LYNN HARTWELL, AFFIRMED, TESTIFIED:

EXAMINATION BY KEVIN KINDRED

Q. Good morning.

A. Morning.

Q. First, just practical things; we've got some water there. The microphone in front of you is what amplifies your voice for the room.

A. Okay.

Q. So, just – yeah. Don't say very much.

A. Okay.

Q. Yeah, but maybe you should say your name for the record.

A. Sure. Lynn Hartwell. Okay?

Q. Okay.

A. Okay.

Q. I think that volume level is fine.

A. I'll move over. Okay?

Q. Okay, and, another thing is that people will be making notes of your testimony. So, if we need to interrupt and ask you to speak more slowly, or just pause for us to catch up. That - that can happen from time to time.

A. Sure.

Q. All right. So, we have in front of you first of all, a document that has writing with your name on it. It's marked with #69 in the corner. Can you tell us what this document is?

A. So this is my C.V.

Q. All right. And it's a summary of your work experience and education?

A. That's right.

Q. So, I'm going to walk you through your work experience first, and talk about your education briefly. And this is just so we can kind of understand…

A. Sure.

Q. …your relationship to the issues that we talk about today. I guess, first things first, your current title from 2013 to present is Deputy Minister Nova Scotia, Department of Community Services. I have some understanding of what a Deputy Minister does, and what the Department does,

but in a nutshell what is the – what is your current role?

A. So, as Deputy Minister I'm responsible for the Department of Community Services; also, the Advisory Council on the Status of Women, and Nova Scotia Housing. And, in those roles I'm responsible for the overall administration of those departments and agencies, as well as providing support, advice, recommendations to the Minister and to Executive Council that relate to the smooth operation of that department and the policy areas that are underneath that department.

Q. Okay, and when you say the policy areas that are underneath that department, just so we can see where these issues fit within your portfolio...

A. M-hm.

Q. What are the broad areas that fall underneath it?

A. So, under the Department of Community Services, the three very broad areas – the first, is employment supports and income assistance. The second, is child youth and family supports, which includes child welfare. And the third is disability supports, which is the subject of this inquiry.

Q. Okay, and in terms of - I guess, it's fair to estimate, sort of, how much of your time gets spent in each of those three broad areas. Is it – is there one that dominates your time, or is it an even spread?

A. It's roughly evenly spread depending on what's happening. It – it will shift, but generally speaking I try to divide our time and energy amongst the three areas.

Q. Okay, so I'm going to review your work history, and really just – the purpose of this is to focus on what – what work you've done with the DSP programs ...

A. Sure.

Q. So we can know what timeframe you're familiar with and what you're less familiar with. So, you began in 1996 as an associate lawyer for Flinn Merrick; presumably, saw the error of your ways in 1998 and moved on to a different career.

A. Absolutely.

Q. So, your first public service job was 1998 to 2004, as a policy advisor with the Department of Justice Court Services. I – my general question is just, does that role give you any experience with the issues covered by DSP

today, or is it not related?

A. There's a general relation in the sense that I provided policy support in the areas that would include things like child maintenance, and other areas of family law in particular, and, of course, issues relating to disability may arise in those. I was also in the role of Director of Court Services responsible for the operations, particularly, of some of the courthouses in Halifax, where we had conversations about accessibility, for example. So, general relationship, but not a specific disability focus.

Q. Okay, and if there are issues about the DSP program in that timeframe would you have direct – direct familiarity with that or – or not?

A. No, I wouldn't.

Q. The next thing in your career is the senior advisor role, Nova Scotia Department of Community Services, Community Deputy Minister's Office. You have that from 2004 to 2005. So, what was that role? And particularly, how did it relate to the disability support program?

A. That role, I was asked by the Deputy Minister of the day, who I had worked with at the Department of Justice, to come and work on some

strategic initiatives that were taking place in the department. And one of those ended up being the Community Supports for Adult Renewal Project, which I was assigned to as a small but mighty group of staff, that were trying to create – were focused particularly on creating more community options within that program. And so, I brought my background in project management and in change management to that program.

Q. Okay. And you said, Community – Community Supports for Adults. I think we've had this evidence, but that's a predecessor to what's now the Disability Supports Program?

A. That's right.

Q. So, that was your role 2004/ 2005. The next time period is 2005 to 2010. You were the Executive Director of Nova Scotia Department of Community Services Policy Information Management. So what was that role, and in particular, any relationship to the Disability Support Program?

A. So ...

Q. Or – or previous iterations of the program?

A. That role, as Executive Director of Policy Information Management was the most senior

policy – policy person working in the department. And so, it would have had a broad responsibility for policy on things such as, domestic violence, poverty reduction, so larger – I'd say larger policy initiatives; and less on individual program policies, but more on, I guess, corporate or strategic policy, and as well, the information management piece - oversight of some practical areas, which included our – our information technology, our FOIPOP division, our records management. So, some of the administrative functions of the department would have fallen under that as well.

Q. Okay, so, if there are issues relative to the DSP. During that timeframe, what would be your level of involvement or familiarity with – with those?

A. It would vary. I would not have been involved in the day to day operations of the program. And was not really involved in the policy or procedures of the program, but was involved in conversations, I guess, larger picture conversations about what the – what we wanted the future of the program to look like and, what some of the – some of the challenges from a policy

perspective were being experienced in that program.

Q. Okay, moving through from 2010 to 2012 you were the senior Executive Director of Nova Scotia Department of Labour and Advanced Education. So, that's moved to a different department. Does that role have any involvement with the Disability Support Program, or did you have any work that – that involved the Disability Support Program for that timeframe?

A. Not directly, but under the responsibility of that division – skills and learning. There was responsibility for employment supports for people with disabilities included. And, yeah, the supports for everyone. And so, there were specific supports that were focused on people with disabilities. And maybe because I've had a – a little bit of background we did have some joint work that we did between Community Services in LAE that I was aware of; trying to make sure that we were maximizing our program so that we were actually maximizing opportunities for people with disabilities to obtain employment, if that was possible.

Q. And the next role, 2012 to 2013, Associate Deputy Minister, again, if you could

describe that and – and what role you had with respect to DSP when you were in that position?

A. So my particular appointment as Associate Deputy was to create a transformation agenda. The – I think my title may have been, Strategic Innovation, or something like that. But it was to assist the Department in developing a transformation agenda. It was in that role that I was co-chair of the group that created the road map document about the disability supports program. I would say that I think I – I'm not going to remember the exact month that I was appointed in – in 2012. But I know that early in 2013 I ended up moving out – or as Associate Deputy being a reassignment for about a three to four month period to work on sexual violence. So, I did leave the department – I physically left the department for a short period in that time.

Q. So, that was not taken from when you were doing the onsite of the role, and for three or four months you had no real direct involvement with DSP?

A. I remained in con – I remained connected to the committee for the sake of continuity, the road map committee. But that was really my only departmental connection.

Q. Okay, and then, from there you moved into the role that you have today, which I think you've described for us. I look at your education background and you don't have any education in the field of social work. Have you ever been involved, in sort of a front line way, to the work of the disability support program?

A. No.

Q. Okay, so your involvement has been at that higher policy level your entire time working in this field?

A. That's right.

Q. And, one thing that you said, just in describing your – your role, you talked about working on the transformation agenda and I just want to, I guess, broadly, sort of, understand that term because it's come up a lot. But from the perspective of the Department of Community Services, like what do we mean when we refer to the transformation agenda?

A. So, the Department of Community Services, when I first was, you know, appointed in that role, and building on my past experience as Executive Director, it was clear that the department's programs and approaches had not necessarily kept up

with the evolving needs of the province, and that we weren't always getting the outcomes that we hoped to be getting. So we weren't necessarily having the impact that we wanted to have. And so, it wasn't sake of change for the sake of change. It was a - a foundational rethinking of what is the role of a social service department in Nova Scotia, what should it be, what should the entire paradigm of support look like, and so, starting with the conversation about one of the outcomes that we're trying to achieve, and then building backwards from that. So, the word "transformations", you know, may be overused in some contexts but in – in this context it really was meant to be, that we were not taking as – as a given, our *status quo*; that we were going to be questioning and looking at what is the best practice; what's the emerging practice; the best way to provide social services.

Q. Okay, and you say that with perspective to providing social service. So, it that something that's specific to DSP, or does that touch other areas of the departments?

A. Yeah, it touches all of them and so, when you look at social service – the provision of social services across the country and beyond. While

departments are generally, you know, can be organized differently, or ministries, or differently, jurisdiction to jurisdiction, there are some core areas that fall within what we would call the social safety net. Income security would be one. Supports for people with disability would be another. Child welfare would be another. So, those would be, I guess, the – the core social services programs. Part of the transformation was to look at those programs, less from a reactive lens and move to a more proactive and preventative lens, which is a significant - I often liken it as turning a ship. It is a significant shift that we've started and we're still very much underway.

Q. So, with that sort of background set, my next area of questions are about the disability support program.

A. M-hm.

Q. And, we've had lots of specific information about instances of how that program has worked. So, I just want to focus on the big picture for – for a few questions. Can you describe, overall, what the disability support program is?

A. At a high level, my view of the disability support program is that it is a program

that provides support to people who need assistance with their daily activities, and who require particular residential supports, in order to be able to live the kind of quality lives that they want to live. And I say – I focus on the residential because I think our program, up until recently, and – and still to some degree, is very focused on where people sleep, where they live, and how the supports are delivered based on those pieces. Part of the transformation is to actually change the program to have a focus on the different parts of people's lives. Where they live, where they get services, aren't necessarily in the same place, but also, an idea of what people do with their days, how they're included in community, how they're included in activities, how they're able to make life plans like everyone else. And so, it is also about – I would say the - part of the transformation is broadening the program in a way to look beyond the number of beds, and the number of placements, to what is a robust suite of supports to help people live the – the full part of their lives.

Q. Okay, and we'll get into some specifics of the kinds of programs that fall under – under the DSP. So, we're high level, I guess. Can you

describe for us the population that's served by the DSP and, sort of, what qualifies somebody to get services under the disability support program?

A. At a very high level – because I – I wouldn't, you know, I wouldn't be the expert in – on knowing the ins and outs of – of assessment. But, generally speaking, it is – there is – there are thresholds around the levels of support that people need, whether it's in the instrumental activities of daily living - that's one term I did – I have learned. If it's in the support with those activities, or whether it’s supports that are required for them to live safely, securely, and so on. So, we – Nova Scotia has a bit of a unique population compared to some other programs across the country in that we have people who may have intellectual or developmental disabilities. We would have people who have physical disabilities, people who have mental health challenges, people who have, of course, co – you know, have more than one of those things. And, we would include in that people who have behavioral challenges that may, or may not, be linked to either disability or mental health challenge. So, it's - it's a fairly broad definition, I think, by design.

Q. Okay, I want to follow up on – on one part of that. So, you said that being fairly unique for Nova Scotia...

A. M-hm.

Q. …compared to other jurisdictions, like what? What is unique about that compared to other provinces who have similar programs?

A. Well, other jurisdictions – I'm thinking some other jurisdictions, particularly, out West in British Columbia they have a program that is about people with intellectual or developmental disabilities; less about people with mental health challenges. So there are some other jurisdictions where mental health consumers, if that is their predominant challenge, or the predominant issue, they end up being served through the medical system, the health system. And so, Nova Scotia, historically, did not necessarily make that distinction, or not – you know, not always, because people have more than one thing going on. So, when we look across the country sometimes it's hard to compare us to the journey that other jurisdictions may have been on, because they may have been working with a population that was largely people with developmental disabilities, with some physical

disability, and not necessarily people who also have mental health challenges. So, it's – there are lots of ways of comparing, but it's never quite as neat as apples and apples.

Q. Broadly speaking again, do you have a sense of how many people are currently receiving services from the DSP?

A. Just around 5,400-ish.

Q. And again, in sort of an overview way, just so we set the stage for impressions that might come later, what is the – what's the range of services that people access from DSP?

A. So, the majority, you know, roughly 90 per cent of people in that range are receiving supports that are what we would call, "the community-based option," so everything from flex at home, flex independent, alternative family support – where people are living with a family other than their own to provide care; independent living support, developmental residences, all the way to, I'd say, the residential care facilities, and then, the two – the - I would say the two most structured areas we have, which is the regional rehabilitation centers and the adult residential centers. We have about, you know, just around 10 per cent of people

living in those situations. So, some are in the range of 550, in that area.

Q. And so, 90 times what – I guess, between the first set of...

A. M-hm.

Q. …options that you describe as community-based options, and then the other two, that you described as more structured, is that?

A. Yes. Now, I would say though to be clear, that there are some options that we would - you know, that are not the two most structured that are – I'm thinking of the RCF population in particular that...

Q. And R – RCF, sorry?

A. Sorry, that's the Residential Care Facility; that are, I would say closer almost to a - a rooming house model in the sense that's where people – people are living, but they wouldn't necessarily have access to the programs and supports that are available in ARCs and RRCs, but they do require supervision and sometimes that could include supervision of – like there would still be, like, daily staff etcetera. So, it's community but they're not living, I guess, independently; they still require some support.

Q. Okay, and so that was something that was included in your, sort of, 90 per cent?

A. M-hm.

Q. Okay, and there are some aspects of that that we will break down…

A. Sure.

Q. …further as we go. So next I want to ask you questions about, sort of, living in community versus other – other kinds of supports provided under DSP, and I think a starting point for that would be the road map document that you talked about. It's in a book that should be in front of you; Book 6A, Volume 2; the larger of the two, I think.

A. Yeah.

Q. And it's Tab 32 of that book.

A. Yeah.

Q. So, you recognize this document?

A. I do.

Q. And there's been lots of testimony about it so far; this is the road map document that you refer to being involved in the preparation of earlier?

A. Yes.

Q. Okay. So, it would be good to keep that

handy because...

A. Okay.

Q. …I think that enough of my questions will refer back to that. First, there are some – there is a statement of principle in this document that I'd like you to comment on. And it's on – so there are some starting assumptions, I guess, at Page 3 of the document, which in the joint book is Page 2862; the tiny numbers at the bottom.

A. I've got it.

Q. You've got the reference? Okay, and it lists some starting assumptions. I'm not going to walk you through all of these, there's just one statement that I wanted to ask you about. So, three bullets in, one of the starting assumptions to the – to the road map document is "all people can be supported to live."

A. M-hm.

Q. And there are other articulations and similar, sort of, principle throughout the road map and through other documents. So, I guess, I'll – I'll start by asking in a summary way, what does that mean?

A. Well, it means what it says. A belief that all people with the right supports and a –

available, can be supported to live in a community. And by community we have – the Department has done some work in talking with clients who actually helped us shape a view of what community means, and for them it's a place to feel safe, it's a place to feel included, it's a place where they get to make some choices; that, you know, real, basic human rights. They want friends and they want opportunities. So – so yes, it's the belief that everyone can live in a community.

Q. Okay. Is there – is there one law about what community looks like?

A. Well, no. I think when we – when we wrote this we weren't being coy about the use of the word "community." We were using the word "community" in the sense that, I believe, it's accepted by many in the advocacy community, which is smaller – smaller options – community-based options, not facility-based care. So we – when we used that word we weren't, you know, that's what we meant. And other places in the document we spent some time talking about what would these supports be that would make that possible for everyone, and what could that look like for everyone? And so, yeah, so we did have certainly a conversation with the committee,

and lots of conversations since, about how to actually make that come to life.

Q. Okay, so that was the view of DCS at the time of the – the road map…

A. M-hm.

Q. …that bring up that "until all people can be supported to live in community," does that continue to be the view of DCS today in 2018?

A. Yes.

Q. And, if so, I – I'm going to ask this in a summary way I'll have some follow-up questions about that, but if – if that's a goal that we accept where is the Department of Community Services in terms achieving that goal here in 2018?

A. Well, remembering that the vast majority of our clients are already living in community; are living in community-based options, I should be clear, we have made tentative progress. So, when I look at the numbers from the last two years we have decreased the number of people, overall, living in adult residential centers, regional rehabilitation centers, and the – the residential care facilities. So, we're on the – we're in the right path. I think we're probably 120-ish less in those three, which is the right direction. We have been able to do a

fair bit of work in creating the upfront community-based options that we need. So, one example that I'll give to demonstrate that is that – early days in the road map, or, I guess, aligning with the timing of the road map the Department of Community Services and the Department of Health did some consultations, and we heard from families loud and clear that they were looking for options that allowed family involvement, but had government involvement as well. And so we created, for example, the flex independent program based on trying some different options. So, we've looked at increasing those community-based option, we've continued to increase and enhance those programs. At the same time, we have been making progress, slow progress, but progress in developing the different models of support that will allow people who currently, or who, in theory, could be living in a larger facility to get the kind of supports they would be getting in that facility to get that on the ground, in a community-based way. And that's working with partners like the Department of Health, like the Health Authority, other people that provide home care etcetera; so that we can try to replicate some of the safety nets that we have

in – that we've put in place in aggregate living situations, and have those apply in community-based situations; so all of those pieces of work.

Q. Okay, and some of that I'll ask you to expand on...

A. Sure.

Q. …in further questions but, I guess, for what – the bigger picture questions that we've made tentative progress; take it from that, we wouldn't say that we've achieved the goals that we have in the road map today in 2018.

A. No.

Q. And so, broad question, why – why aren't we further along? Why haven't we achieved that goal as of 2018?

A. It's certainly not for lack of desire. We've learned a lot in the last two - three years, and what we have learned is – it's become evident, is that the kind of change that we are talking about, which is not just tweaking, but a fundamental shift, is taking time. And we can only goes as fast as clients and the system can do so safely, and respectfully. And by that I mean that we have – we – we had a project; project 25, which is a bit of a – incredible learning, but it was a

bit of a leap for us because it was very early - we – in days, and we just said what will it take to move 25 people, who currently are living in larger facilities, what will it take to support them to move to community? What would that look like? How...

Q. Okay. You – you said that was early days I just want to attach it to a timeline.

A. It would have been, maybe, 16/ 17 – 2016/ 2017...

Q. (Inaudible). Okay, so...

A. …around that timeframe.

Q. …so post – post road map you're talking about then.

A. Right.

Q. (Inaudible).

A. So, road map – yeah. So hit the road map we've accept – we've moved on within the – we've created a transformation agenda got the approval to do all of the things that we wanted to do, and then one of the first things you wanted to do was to try this project; to move people, and to learn from that. And we've deliberately asked our staff to – to select and to support people with an array of – of backgrounds; people who had all kinds of

different behavioral issues, who had different presenting diagnosis, all of those things. And so, - because you – you really wanted to learn not just – not just from people from – who looked all the, you know, same rights, similar kind of backgrounds. And so one of the first things that we learned was that, in order to do that in a way that was respectful, and was – you know, was transparent is that we had to actually be able to assess where people were and where they wanted to go; and, sort of, what their presenting, you know, life situation was. And so the – so we actually did a – a relatively intensive assessment period where we assessed about half of the people that were in those larger facility for the purposes of moving. So people, of course, are assessed on a regular basis about their particular needs, but to do an assessment about where people want to go in a new – new future is a different type of assessment. And so we have care coordinators around the province provide us with names and of people who, you know, were interested in moving, but who again, had a diversity of paths to – to be able to do that. And so from that we went – I think the total is – I think around 42 people ended up being moved to a

place - so there were some people who moved out of small options into apartments, and so that opening of the small option allowed someone to move from a group home into a small options. And that opening of the group home allowed someone to move from RRC into a group home. So, there was a bit of a cascading effect, but we learned a lot about how – how to support people to live in community who may not have had that as part of their vision, who may not have ever had the experience of living independently. And we learned a lot about what was required from us, and what was required from communities to be ready to support people. One of the things that happened is that we had 11 people who got very close to moving, and at the last minute could not make that move; a couple did actually, I think, try and ended up returning. And when I asked staff what – you know, what that was about it was a variety of things, but by in large they – they and their families just were not ready to make the leap it was too much of an unknown. And - so that doesn't mean that that's not the right thing for them it just means we have to do a better job of showing them what's in the art of the possible. So, we needed to have – we needed to have people who

have made the successful transition and have gone to the other side, and other people can look at that and say "Yeah, I can do that too," you know, and that often involves having families who have been part of that; who can talk to other families and say "It's okay, it will be fine," and that probably is our – you know, is our responsibility, but it's also the responsibility of advocates. And so, how we can support advocate – advocacy – to do that I think is something we are – we're working on. So I would say we've, you know, - if we're going to do – if we're going to honor the spirit of the road map, which is that this is a person centered, person directed approach, then we have to meet clients where they are. And so, we – we didn't obviously force the people, who in the end changed their mind, we didn't force anyone we simply said the option for you – if this is not your option right now we'll – we'll move on and we'll revisit, because you have to have them in the driver's seat. So, when we're dealing with people and their, you know, their – their skill, and their hopes and their dreams for the future, as well as their challenges and their lived experience it's – it's taking time. And the other thing I'll – I'll say is that it's

also about community readiness to receive people to live in community. We still get calls and emails, and, you know, concerns brought forward by people who don't want a small option, or don't want a group home in their neighborhood; we still get that. And so, sometimes the creation of what is a small – you know, to build a small options - to create something takes longer, because there has to be a degree of community consultation and community involvement. That's not a bad thing, that will help create a welcoming community down the road but it takes time. So, all of those lessons are ones that we're – we're learning, and we certainly are feeling the – there's no one in the Department who works in this area who does not feel the weight of the expectations around this, and we are going as fast as we can, and still feel like we are doing right by the clients that we're serving.

Q. Okay, and I'll ask some specifics about...

A. Sure.

Q. …sort of, pieces of – of that work in a moment, but still just on – on to the big picture questions. One of the things you described is – is moving people from, or facilitating people to move

from larger facilities to more community-based options.

A. M-hm.

Q. So, I want to ask some blind questions about that. In some testimony to this, but just from the Department of – from the perspective of the Department of Community Services is it – it is fair to say that – to recognize there's been an over-reliance on large facilities historically?

A. Absolutely. Yes.

Q. Okay, and so what are – and we're taking a turn in a different direction. What are some of the reasons for trying to take that turn? What are some of the issues with reliance on large facilities that have driven the Department to do the things that you're describing?

A. One of the most important ones is that research and experience has shown that in most societies we don't live communally we live – people live independently. People are able to make choices about when they eat, and what they eat, and where they go, and who they're friends with. And so, to create a system that is based on limiting those choices, is not a system that is necessarily one that's going to foster human development, you know,

human prosperity. And so, there's been a lot of – there's, you know, - there's been research that's certainly been brought to our attention; research that we've commissioned. Some of the work from, Michael Bach, and his group who supported the road map. It wasn't really a selling job it was accepted that – that may have been model that people, at some point in time, thought was the right model, or was a – you know, it was no long – it was proving that it was no longer the best model for many people. And so, I would say the practicality of it as well, is that – when I think about the responsibility of administering this really complex system we need to have options that people want, and that meet their needs. And society has changed in the last 30/ 40 years; the acceptance of the large communal living as appropriate for people with developmental disabilities, and other challenges, has been declining; people are no longer open to that. And so, we are in a situation where the menu of what we have to offer is not actually what we believe is in the best interest of most of our clients. But, frankly, clients themselves and their families aren't willing to accept those options. So, you know, we have a –

again, a system that we have to – back to my ship analogy; we have to turn it around the other way and create a menu of options that, actually, are ones that people want. That's why the – you know, the word "choices" is in the document and is used throughout is that, we want to have a system that has more choice for people. And the – well, there are – you know, the – I shouldn't make up why people necessarily went to that model. There are – you know, there are some services that we offer now in larger facilities; I think recreational therapy etcetera that it's important for us to find a way to deliver those services, or support the delivery of those services for people who aren't all living communally, but the reality is that's where some of them are being delivered today. So, that's what I mean about creating new systems and new networks, because we're trying to shift a system from one way of operating to a whole other way of operating.

Q. So, you – you talked about some of the – some of the practices, and some of the research and advice that the department had around that. In terms of specific issues there have been a number of descriptions of the way certain large facilities have operated, what life has been like in those

large facilities. You know, I guess, what's the department's level of awareness of – of that sort of issue? That, sort of, satisfaction of just what the living situation is again, in those large facilities?

A. There's no one perception or no one experience. You know, we would have care coordinators who were in and out of – of the larger facilities on a regular basis, and we certainly have relationships with all of the service providers on a regular basis. I can talk from my own experience I've been to the three RRCs, and I've been to a number of the ARCs, and what I've learned about them is that the people that who work there and the people who live there, have worked very hard to create a sense of community that works for them in those facilities. So, by saying that I'm not in any way suggesting that that sense of community is comparable to a sense of community that is not artificially created; not at all. But my experience going in there, and that's meeting with clients as well as staff; they are very proud of where they – not all of course, but by in large the folks who chose to talk to me were proud of what they've been able to do. To create something

better while we're doing the changes that we want to do. Certainly, we hear from – we have strong advocacy from families who have – family members who were in larger facilities who do not think that they are appropriate for their family member, and have, you know, raised concerns of a number of – on a number of things, but largely around the lack of true community experience. We also hear from parents, family members, who have family members who are in large facilities, who do not want them to leave that. That is level of safety that they are – that they are comfortable with. So we hear from everyone, and then everyone in-between who have different experiences. So, that just – to me, all of that informs how we are going to get from where we are to the desired future. It doesn't mean that anything is off the table it – it means that we have to move in a way that's careful, and understanding that not everyone has the same experience of living in a larger facility, and we have to find a way to respect that and still make the transition.

Q. And in terms of people's experiences, I'm going to focus on the negative side of the experiences of living in those facilities. We've

heard a lot of evidence about some – some pretty dire situations that have arisen in those facilities, and I – I won't take you to...

A. M-hm.

Q. …but there are a number of documents that refer to findings of abuse in those facilities, and – and, you know, other pretty significant criticisms of those.

A. M-hm.

Q. So, again, is that – how does that factor in to the Department's thinking about – about its current plan?

A. Well, it's – the most important thing is that there has to be zero tolerance for abuse, neglect of any kind in any place where people are being cared for so that, you know, that's a given, of course that is not acceptable. What I – what I would say - what's interesting to me is that when you're in the world of providing human services; people to people, you get people on their good days and you get people on their bad days, and its hard work. I have nothing but admiration for the folks who can work in situations where they may be yelled at, there may be a lot of aggression, and there may be other things but we keep a close watch on that.

So, you know, it's - these are stressful, but we expect that there is zero abuse of any kind. So every month I actually get a report from the protection of persons in care unit where they just kind of give me a sense of what's going on. And, you know, sometimes its resident to resident issues. What I have noticed though is that it's – it's not a predominantly facility based issue. There is also lots of reports that come out of small options, and I think that's because again, it's the human nature of the work. Someone get frustrated - I'll give you an example, that, you know, I just read recently; got frustrated they wouldn't – a resident wouldn't take their medication and, you know, a staff person said something like, "Well then," you know, "damn you then," or something like that. Not Okay. Not Okay. There should be repercussions for the staff and there should be pieces; there should be pieces of work as a result of that whether that's training of the staff, whether that's actually more disciplining of the staff if there's other factors, but there's also training, etcetera. That kind of thing will happen wherever there are vulnerable people and there are human beings taking care of them. We need to have

the right safe guards in place to make sure that there's no – that that's not tolerated, and that we're taking steps to fix that. So, it is something that we're quite mindful of and, you know, recognizing that in some of the larger facilities there are more people walking around seeing. And some of the smaller options; the only people who might be there are the residents and occasionally their family. That is a role for government to play to make sure that we have eyes into those facilities, and that we have ways of residence and their families of being able to make reports, and make their concerns known and, of course, working with service providers so that those things aren't happening in the first place. That staff are trained, staff are supported, staff are getting all the help that they need to work in sometimes very stressful environments.

Q. So that was, sort of, some of the issues that have affected the policy directions that the – that the Department is taking. I want to step back for a moment, and still at high level, just talk a little bit about the history of how the system got here.

A. Sure.

Q. Recognizing, you know, the – how your career, kind of, interacts with that has – has not been there for the entire history of the system but – so maybe I'll – I'll put two pieces that we all may know from the evidence and just ask, sort of, what you know about them and how – how we explain it. So first, we – we know that at a certain point there was a transfer of responsibility for this area from the municipalities to the province that has predated your career, but, sort of, what's your familiarity with that, and how does that plug into how we see the system today?

A. Well, when I joined the Department first in the, sort of, the Senior Advisor Project Manager type role I had the pleasure of working with a number of staff closely who had frontline experience, who were part of the committee, and so they were able to describe to me what – you know, give me a bit of a history, I think, in why the programs that we saw were such a patchwork. Where, you know, I have said before that no one designed the system that we're in we inherited bits and pieces, which is part of why we want to design the system, but the Municipal transfers actually explained a bit of why there were such differences

in – in service prevision around the province; so why in some areas there was, you know, a whole lot of a particular type of facility, or particular type of service. It explained why policies that seemed to have – should have a universal application were sometimes being interpreted differently; it – it just explained a lot. And so, I didn't have direct experience, but I certainly saw the experience of living with the after – aftermath of that. That to some extent, you know, even a little today, there will be pockets of things that will think well, why is it being done that way? Well, it was done that way by one Municipality, and that practice has carried over. So it, you know, it doesn't – yeah – it just provides an explanation of why there were so – such disparities in a system, and why the system had – was not a comprehensive system across, you know, across the whole geography. That there were places where, because people did things differently there might be an in – inadvertent gap in a service, and that over time we've uncovered those and tried to fix that; it's – it's – really explains a lot, doesn't excuse it, but explains a lot.

Q. Okay, and, I guess, that sort of points

to the system as a whole. I think your comments were, specifically, with respect to what we refer to as small options homes again, we've had some of this history as to how that – how that came to be, and how the province came to be responsible. So from your – from your review of that history – from the knowledge of it, sort of, what issues arose at the provincial level once the province took over responsibility for small option homes specifically?

A. Well, small options at that time weren't licensed, and so there was a, you know, I guess, a – an inheritance of quite varying quality. And I – you know, there are people who were doing amazing work and providing a very high level of care, and there were others that weren't necessarily set up to provide that. They – they – that wasn't – you know, they were running it as a business and they weren't necessarily providing the same level of support. And so, I think looking at small options, I guess, not all were created equal. There were not standards of – that were consistent across the province of what you would expect in a small option, and so getting to the bottom of that took a fair bit of time as well. Not just because we wanted universe – uniformity – uniformity doesn’t exist in

the world of providing disability supports, because – at least it shouldn't, because supports need to be unique to the individuals, but it was beyond that. It wasn't just – the – the differences weren't because there were individuals that have particular needs. It was just because there were different people operating at different things, different schemes, and so people were getting very different levels of service. So, getting at that was a piece of work that I'm aware that happened at some point when they first started to come over, it was just taking a hold of the quality that was being provided, and – and having some sense of what the standard should be.

Q. Okay. You talked about the consistency and quality. Were there other concerns that the province had at the point of taking over the small options in particular? You're content? From your response, I'm guessing, no.

A. No, I'm just – yeah – no. Not – I would say that it – it prompted the conversation about what should be licensed and what shouldn't be licensed, and what is the standard of care. We certainly heard from advocacy organizations that – that community organization – or that small options

would provide, sort of, the optimal type of support for clients, and I think that understanding why that was the case was part of the – was part of our journey. Again, I'll go back to the, you know, the philosophical statement that humans by in large don't live in large congregate settings, so smaller settings made more sense, but in order for that to happen it's also finding people who can live together and are compatible, and – so, maybe, you know, that's back to setting up what are the best practices to do that. There didn't seem to be an agreed upon practice on how you would match people who'd live together, and how you would determine what it is that they would – that they would need, and what they would want, and so all of that really needed to be created.

Q. Okay, so moving again for the history we've heard a lot of evidence about what's been referred to as a moratorium...

A. M-hm.

Q. …on new small options homes.

A. Yeah.

Q. That seems to have corresponded with the time that the – the province took over responsibilities for small options homes. So,

again, if I have the timing right that also predates your – your work with community services. What's your understanding of, what we have come to refer to as a moratorium, on the construction of these small options homes?

A. So when I joined the Department I certainly heard a lot about it from advocacy organizations, and I would say from staff who were in the middle of doing what I described earlier, which was I think trying to develop a go forward for what would the quality of support – you know, what – what is the best practice in providing small options, what does that look like? But, certainly the term was used to describe that at that time there wasn't a desire to build new small options. The desire at that time was to explore other community-based options, which is probably why I ended up coming to community services; to build some other community-based options. In order to, sort of, build the community side – the community-based options side of our menu, but also because I think people were grappling with what is the best approach for small options, because it, you know, had been part of the transfer. So, it was something that, kind of, gained mythic status that is was

something that had been proclaimed, but I'm not aware that it was actually a formal – I – I never saw anything in writing about it. I wasn't aware it was a formal policy, but there was certainly - again, the staff that I got to work with were – were able to share a bit of – a bit of what they understood the moratorium to be.

Q. Okay, and so I just want to pin that down, because there's been varying testimonies as to how familiar people were with the idea of a moratorium.

A. Yeah.

Q. So, the term "moratorium," you just need to be as specific as that describing this; was that something that, sort of, day one starting with the Department you were familiar with? You've heard that term used to describe this issue?

A. I – I don't think it would have been day one. My feel was that it was something that the advocacy community had started to use that term to describe what was clearly happening, which was no new small options were being built, and then I think over time the Department started to use the term too, because it wasn't inaccurate. But again, it wasn't something that was presented to me as this is a policy that has been adopted, and it seemed to

be a – a bit more amorphous than that. But again, at that point in time I was not in rooms where those conversations were being had. I was really focused – at that point in time, when I first joined the Department, really focused on the project…

Q. Okay.

A. …which was about let's try to create direct family support, alternative family support, independent living support, so that we could have more community-based options for people.

Q. So, if – if we were to look for a policy document that said, "Here's a moratorium, and here's why," like, would we find that in the records anywhere?

A. I don't believe so. I've never seen anything like that.

Q. Okay, but you don't deny that you – well you said it accurately described what was happening.

A. Well – yeah, I – I – yeah.

Q. Fair enough. Do you have any understanding of the purpose for that practice, which it could be described as a moratorium?

A. I think it was a – again, I'm surmising based probably more on the position I'm in – now

in, then anything else looking back at on why someone would have made those calls. It probably had a lot to do about – a lot to do with two things I'd say, maybe three. First, being the, you know, the inheritance of small options and wondering what was the best way forward with that; the fact that I believe that that would have been around the time that some of the rising costs of the system would have come forward, and people would have been grappling with; are there ways to manage the cost without necessarily – you know, are there other ways? I think there was conversations about that I imagine, knowing how much we do try to be good stewards of – of tax dollars. So, I know – I'm sure there were conversations about that. And then I think there probably were conversations about – it may tie to the first that – that small options were becoming a bit of a byword, a description, of the only way that people could live in community, and we needed to – we knew that for some people they – they actually didn't need a small option. They didn't want a small option, but that was the only thing that they could use to describe what they – what they wanted, and so it was really important to have things like the independent living program

where people who could live independently but have, you know, up to 21 hours of support a week; that they have that – they have the dignity of living independently with just the support they need and not be – their only option be some place where there's 24/7 care. So, you know, it was about creating what those options were. So, kind of, in some ways, testing the – the limits of what community-based supports could be, which is the alternative family piece coming up. Recognizing there are people who want to live with family, not able to live with their own, or choosing not to live with their own; are there other families who can create that environment? And then, of course, the program that we have the most people in, which is now flex at home, but have been direct family support for adults, which was – there are a lot of people who are choosing to live with family, and so we wanted to make sure we had a formalized program that was consistent across the province so that – and, that was a program that we – we could offer to everyone, including people who were on the waitlist.

Q. Okay, and so I asked you about your understanding of the purposes of that practice –

that can be described as a moratorium and just to be fair I think you said "probably a lot," in answering that so (inaudible)…

A. Yeah, I was not part of any of those conversations.

Q. Okay, that's totally fair.

A. Yeah.

Q. I just – didn't want to...

A. No.

Q. …I wanted to be clear about the fact that you were speculating.

A. I am speculating based on – yeah.

Q. Okay. So – but you were working in the – in the division – sorry, in the Department during the – the time that this policy that can be described as moratorium was in play. That was...

A. Yes.

Q. Okay. Well, I guess, I'll make you skip to the end of this first. It was – does that continue to be the case today? Is that moratorium policy still part of the Departments operations today?

A. No. And if – you know, to be – to be clear, the moratorium was never absolute, again, it was a word that I think we ended up adopting,

because it, you know, was a reasonable one, but there were small options and other community-based placements that were created during that time period, of course there were. What has lifted, I guess, or what's changed is a planned approach to creating more small options, which has happened in the last two years, and so that – that's what's new. So, you know, while – while I'm Deputy I'm aware that there are small options that have been created, but not as part of a planned proactive ask to community and to service providers to create more; so that is, I think, the – the difference, of what's happened in the past couple of years.

Q. And so – and you specifically said in the last two years, or so...

A. M-hm.

Q. …is – is there – I think I asked you is there a point where we could say, here's the declarations of the moratorium, you said no. Is there a point where we could – or a document that we could point to and say "Here's the end of the moratorium," or is it more loose than that?

A. I – I would point to – I think when there was a clear signal that could be shared with community was in the – not last year's budget, but

the budget before where they announced the small options - the – the creation of small options homes.

Q. Okay.

A. Now, I would say, again, you know, to be clear before that there were small options being created, but this was the first time that there was that proactive statement, and so I would put it to that. But I'm not – I – I can't actually recall whether that was something that was in an election platform, or maybe had been talked about in some other place, but certainly when it ended up in our budget we had a clear indication that we were - you know, we were moving in that direction.

Q. Okay, but again, I look for a press release that said "moratorium lifted," or something, sort of, as direct as that, would I find that?

A. I think there would be a press release that says there are new small options being built, whether it referred to a moratorium that I – I don't recall. I don't know.

Q. Okay. So for that period that, whether we can formally call it the moratorium or not, that was the – that accurately describes what was going on.

A. M-hm.

Q. It's been suggested that the moratorium means that there was no investment in community-based options. So, I'd like to just put that to you If I – if I put to you the proposition that because there was a moratorium it reflected there was no investment in community-based options by the Department, what would you – how would you respond to that?

A. That's not true. So, you know, as I've said already, there were investments in small options, again, not in the planned way that we want to move forward, but there was – there was investment in community-based options such as, the direct family support program, the creation of the extended family support program that created a significant monthly – you know, it created a significant increase in the monthly amount that was available. There was investment in adult service centers, in other kinds of day activities, so there were all kinds of investments. And, I guess, the other thing that's worth talking about a bit is that the overall budget for this program has, you know, loosely has, you know, doubled in the last 10 years, and not all of that – not all of that have

been due to rising costs; some of it has. A lot of it has been because we've been broadening out – broadening out what are some of the options of programs that we have available to support people to live in community. So, there has been investment.

Q. Okay. Okay, so moving to the more recent part of the history that in – in the road map, specifically. The – so again, you have the road map – road map document in front in of you, and you had testimony from, Ms. Lill, who was co-chair with you...

A. M-hm.

Q. …on – on this committee. So, I'm not going to ask you a lot of details about the origin of this, but – but a few just to set the stage. So, first of all, why? Why did we – did the Department engage in a process that lead to the road map document? What was – what was the goal here?

A. The – the goal was to – to work with – with people with disabilities and their advocates, and services providers, and our partners in government to really do the strategic, transformative work that I described. It was, you know, in all of the meetings that I'd ever been

part of there were very few, very few instances where we didn't all share the same outcome that we wanted. We wanted to have a better support network for people with disabilities, and for people with disabilities who live – be able to have access to the full range of opportunities that we would want all of us to have access to, but we didn't quite agree on how to get there, and so this was very much – the word "road map" was chosen quite specifically for that reason; it talks about one way to get there, you agree on the outcome and here's a path that will take you there, it's a road map. And so the creation of that was very much about can we work with community, and once and for all so we actually agree we – we're – we all have a shared vision, or I would say a largely aligned vision; how could we get there, and what could that look like? And that’s drawing on their expertise, their lived experience, our expertise, and our knowledge of how systems were working. So, it – you know, there was almost a – a moment in time, I think it was very much informed by the – the UN declaration that the province was a party to and – and Canada. And so, that was very much front and center in conversation, and we had been developing, you know,

although I stepped out of the Department for a while and went to Labour and Advanced Education, but we had been working hard to develop relationships, better relationships, more collaborative relationships with some of the advocacy community, and some of the service providers who were willing to come to a table and have conversations about what was in the art of the possible. So, you know, we were at a point in time where things aligned, people were – were ready to have this conversation, and the government of the day was supportive of us having that conversation; not – you know, again, giving us a license to describe a path to get to a new future.

Q. Okay. So that's, I guess, the goal the why. The process, again, we've heard this, but can you just in a nutshell what was involved in the – the work that went into this document?

A. My recollection is that it wasn't a particularly – wasn't a particularly a formal piece. My – my recollection is that I reached out to, Wendy, and maybe a couple of other people who were part of the Community Homes Action Group, but it might have been that group, or it might have been a precursor to their group. But – so we reached

out to some advocates who were quite, you know, who were really interested in engaging with us on the topic, and we actually had a meeting with them and said, "How could we do this? We want to do it with community – how? What was your best – your best ideas?" Rather than us, you know, strike a committee and invite people ourselves we really wanted to have input from them on what was the best way forward, and who and how, and what could some of the rules on how we work together look like? And so, they – there was a small group who was willing to be part of that, sort of, preliminary design and they provided us with some advice on, you know, the need to have a – almost an outside expert that we could attach to the group that could provide us with information. And so we had had some work, or background, with Michael Bach and his research group, and so everyone that that was a great idea, and so we brought that on. And – and then I think we went through a process where we wrote to different organizations that we had jointly thought where it would be great to have people there, and invited people to come to the table. and we had to spend a little bit of time figuring out what would the – the terms of that be? In the sense that we

wanted people to be able to fully participate and be as frank and as open as they could be. And we wanted people to be able to bring – to represent the people, you know, the constituency that were behind them. And so we want – you know, we walked that fine line constantly of wanting to keep information confidential so that people could have frank conversations and not worry that what they said was attributed to them, but we also wanted people to keep their – the organizations they worked with in the loop. So we meet over about a year, or so, I guess, again, I have the little hiatus where I was less physically attached to the building, but I would still – came to these meetings and – and co-chaired with, Wendy. And we – we did as most groups do, you spend a bunch of time understanding what the issues are and making sure you have a shared understanding, and – so there was a lot of information that we plowed through then a little bit of analysis of options looking at other jurisdictions, getting advice from the IRIS Group, which is Michael Bach's group Institute for Research something, something.

Q. We – we've heard from them.

A. You know, and – You know, and then kind

of coming up with, you know, the delicate dance of negotiations around well, what are the right recommendations? And that group was very committed; We were all very committed to signaling an urgent desire for change, and so that's really where we ended up with the road map.

Q. Okay. As part of that process was there – I mean, and the product was developed, which we've seen and recommendations, which you just referred to; was there a costing of, sort of, what it would take budgetary wise to – to implement all the recommendations?

A. The entire road map?

Q. Yeah.

A. No.

Q. Okay, that wasn't part of the work that went into producing the – the road map?

A. No. We - we brought as much information as we had on different – the cost associated with different models that we had currently, and what it looked like under jurisdictions, but again, because this was very much based on individual clients path forward we really needed to have an understanding of what – you know, where clients were and where they wanted to go, and what the future would look

like. There's so many variables that, at this point in time, we could not have an accurate costing. We certainly could have a global sense based on experience that, you know, the more – the more challenges that people may experience behaviorally are the - generally, the more expensive the supports are, whether they're in a facility or whether they're in an apartment but beyond that we're not able to – there's just too many, too many variables to extrapolate at that point in time.

Q. Okay. Before getting into the individual recommendations I'll ask you some details about each of the individual recommendations. But, the road map was presented we've heard with a sort of commitment to a timeframe for implementation, and – and we've also heard a little bit, but that varied, so what can you tell us with respect to the timeframe for...

A. M-hm.

Q. …Implementing – implementation of the road map and how the group landed on it?

A. That was one of the areas we spent a fair bit of time talking about. Again, the advocates on the committee felt very strongly that they wanted a short timeframe, and they – as a signal. And so,

you know, those of us who work for government were part of those conversations, and we too supported the – the desire to signal that this was something that we wanted to have some urgency behind. But, in those conversations we also were equally clear that we – we all had looked at the experience of other jurisdictions, and frankly, the experience of Nova Scotia in closing the children's training centers. We all knew what we didn't want to happen, which was we didn't want things to move at a pace that made people unsafe or that had the – had unintended consequences; nobody – no one wanted that. So the understanding is always about, of course, we were moving towards people living in community, and the hard work is actually going to be in creating the network of supports that are required for people to do so. So that was – so, you know, I – the timeframe number was a real – a real desire, a real aspirational hope, and it was contingent on us being able to create the networks that were – and the supports that were required for people to do so. So, you know, in that sense when I say it changed the timing of it was unusual in the sense that – my recollection is the report was released, there was an election called very soon after, if

not the next day, or somewhere around there, and, you know, in our democracy when governments go in election mode we all step back in the sense that we – you know, no – no big decisions are made during that period, so there was a moment of uncertainly as to what was going to happen with that. It became clear in the course of that process that all three of the major political parties endorse the road map, so we knew that we were – whatever happened we were going to go in that direction. But then we had to start the work - the behind the scenes work of doing some initial costing, but also some initial scoping of – in order to do any of the things that are outlined in here; what are the steps that we would have to take, and what would need to be lined up. So we were starting a little bit of a "Okay, so what is the plan around then – that," and then, you know, and then we had to be ready for whatever happened; to come in and be able to provide advice to whoever ended up being government about what we believed was the best way forward knowing the road map - what the road map recommended, and knowing what our initial review of what could be done, and how it could be done; we could demonstrate.

Q. Okay, and we heard some specific evidence

about the – the specific timeframe that was set. There was a discussion of five years that had – at some point the timeframe changed to I – I believe 10 years. Can we just talk about what...

A. Yeah.

Q. …you know, how five years was landed on and then what lead to that changing?

A. I – I don’t recall there being any particular science around the five years. I believe it was much more; we want to have it within a short, or, you know, what seemed to be a reasonable timeframe for there to be some action. And so, I – I think it was more of a consensus conversation that – that we knew that that would signal that there was a desire again, urgent desire, to have some focus on this. The 10 year conversation really was when we had started to map out all of the pieces of work, again, engaging people who hadn't been engaged necessarily in the road map conversation but in the actual "Then okay, so how do we design our systems to change," and in conversation with some of the service providers we began to think well, we need to make sure that we're setting expectations that while they're still a commitment to work – to start work immediately, and to try to

achieve as much as possible within that five year commitment that it's probably more likely that they'll be a decade of change, and so we started using that language; decade, again, more art than science. But seeing some of the things that were coming up as a result of the road map, it was clear that it was going to take some time to be able to have the full consultative work done to be able to move the entire big system.

Q. Okay. And a - one specific question about that timeframe and how you took that timeframe; I think there may be an expectation out there that that commitment meant that at the end of – at the end of that timeframe the – the large facilities would be closed. We would no longer be using large facilities in any way. So just specifically on that one...

A. M-hm.

Q. …is that the intention of what that timeframe expresses? Was that part of the commitment to that timeframe, or – or was it not?

A. I – I can't speak to what others believe to be – to be the interpretation of that. My belief, following the conversations that we had was; people would expect to see significant movement within

five years. I don't think – certainly I wasn't expecting – and I – I'm extrapolating in that I don't think that others were believing that we could within five years have everything shut down. But there may – if there were people who believe that to be the case we just – we obviously didn't have the level of conversation that brought us to that clarity, because what I – what I recall, and what I heard from committee members, is they wanted to see some positive movement and some absolute commitment, and whether it ended up being five years, ten years, as long as people felt we were moving my sense is people felt like that was – that's what people were looking for, a real commitment.

Q. Okay, and one of the things you talked about in describing the process behind the road map was you had looked other jurisdictions, and we had looked at the children's training centers and said we knew what we didn't want to happen; so I want to expand on that just a little bit. As part of the work into the road - well – I'll ask, as part of the work – work to the road map, or subsequent; what was – what was the learning from other jurisdictions? What – how did that affect the

decisions made as to – to how to implement change here?

A. Well, keeping in mind, you know, the conversation we had earlier about not all jurisdictions looking the same. We did reach out to other jurisdictions to try to understand it. And actually, Michael Bach helped us with part of the jurisdictional view as well. But then we reached out, sort of, you know, administrators of a system to administrators of a system to ask them what their experience had been, and to learn about what we could do, and it was – it was really eye-opening. Certainly, in some of the jurisdictions; Alberta comes to mind, Ontario, they – their belief that their adherence to a strict timeline led to them moving more quickly than they should have, and that there were people who ended up being quite – who were already vulnerable, ended up quite substantially at risk; and talked to other jurisdictions, Manitoba comes to mind, where, you know, they publicly have closed their larger facilities. In reality, they still have facilities that are open that they have not been able to successfully transition some people out of. And what that means, you know, how – how challenging it

is to – to work with incredibly vulnerable people and their families, and say this is the deadline and have people then spend a lot of energy, and worry knowing that that's coming without – unless the plan – we actually have plans and a safe network, and all the services that I've already described, in place. So they described that, and were able to describe some of the things that we wouldn't – that you wouldn't necessarily know just by reading media reports about some of the advocacy and concerns that they've received from families and clients. So we – we knew that...

Q. I just want to pause you there to say, you - you knew that – I want to clarify where that information was coming from?

A. Well I was having direct conversations with either the Deputy or senior officials in other jurisdictions, or my – more often my staff were having conversations. I also had the opportunity to, early in this, be part of the Canadian delegation that went to the UN on the UN Declaration, and to talk with people from around the world about their experience. And again, it's – it's so hard to compare, but there – there were lots of nuggets, and a lot of conversation about

risk, but also about the dignity of risk and how you actually – how you – what is governments role in creating systems that allow people to – to take on what is reasonable risk for them, and who gets to decided, and so on. So, you know, we – I've had direct conversations, my staff have had direct conversations, and this is something that I am not aware of any jurisdiction that has done it exactly right. So we are in the position of trying to pull best practice learned. Learn, I guess, lessons from any jurisdiction that is willing to talk to us.

Q. Okay, and the other part of that being said is we had looked at what happened with respect to children's training centers…

A. Yes.

Q. …and so what was the – the take away from the experience there? Well, first I'll ask, from whom did you...

A. Right.

Q. …learn information? Because I see from your history that that happened before your time working at the Department.

A. Yes. So, I wasn't around during the – the closure, but again, had the opportunity to work with frontline staff who described that, and

described, you know, one described the level of distress and chaos introduced into people's lives that didn't – didn't necessarily serve a lot of purpose; so setting a deadline that actually made people worry without having the concrete plans of what was going to happen, or the systems to actually support was – was very challenging, I think, for the care coordinators to work within that timeframe, and so that's what I heard a little bit about. They also described that, you know, and those – there was much less – you know, the numbers of children were actually quite small in comparison to our system, but they described it as being a bit of a – having a longer effect on the system than people would realize in that there were people who ended up in our adult system who had been in the children's training centers, who that transition hadn't been – from the children's training center into community, hadn't been successful for them, and as a result they ended up in placements that were probably more structured than they – if they had had the supports up front when they were actually making the transition; so it was all about doing the transition right. So, you know, that has also stayed in my – stayed in my mind as well; is

that there's no action that we can take that doesn't have a direct impact on clients in this regard, and getting it right is far more important to me than getting it fast, and that's really the lesson that I learned from those staff.

Q. Okay, and just something specific before moving on with what you just said. Part of your answer when I asked about the children's training centers was that; doing this for no purpose. I just want to clarify what you meant by that? Are you suggesting that the closing of the children's training center had no purpose, or you were saying something else?

A. Yeah, no. The closing of the children's training center was the right thing to do. Children need – children should be with families they shouldn't be in – in facilities that's a – so, no disagreement with that. But, what I – what I meant with no purpose was that I – I think it makes a few people feel better when you impose a deadline, and say "by this time we will have it all fixed," and that makes everyone feel better, except the people that are necessarily under that deadline who know that is not going to easily happen, or that it can only happen at a cost. And so that's the

frustrations, I think, with no purpose; is that it allowed everyone to – to say "Oh, we – we've done that," and yet people who worked in the system knew that there were children who were still not doing okay. They were still experiencing the challenges of having to move from where they had been to something that wasn't working for them. They'd met the deadline but they – it had happened – I guess, the – the purpose – if the purpose was to have the best care for a child, that hadn't been secured yet, and it took a – a – took a – there was a fair bit of clean up to make that happen.

MR. KINDRED: Mr. Chair, my next questions move into a different area, and it's 11:00 it might be a good time for a break.

THE CHAIR: Sure, take a break. I'm sure you're familiar, Ms. Hartwell, but you're not to discuss your evidence with anybody during our breaks otherwise, we could have a further conversation if necessary if Ms. Hartwell doesn't finish her testimony.

MS. HARTWELL: Yes.

MR. KINDRED: Well, we'll cross that bridge if we come to it.

THE CHAIR: Exactly.

MR. KINDRED: So, I think 10 minutes will be sufficient.

THE CHAIR: Yeah, okay.

RECESSED 10:59 A.M. TO 11:18 A.M.

THE CHAIR: Okay.

BY MR. KINDRED:

Q. So, the next area that I'm going to ask questions about, and I imagine spending some time focusing on this, is overall the progress that's been made in implementing provisions of the road map; progress, or lack of progress…

A. M-hm.

Q. …or somewhere in-between. So first of all, I guess, to set this up we should look at what the recommendations are in the road, and that is found, I guess, the section really starts at Roman numeral three in the document, and that is page 2856 of the giant book of exhibits. Do you have that in front of you?

A. Yes.

Q. And the section Set of Rules and Recommendations for Transforming the SPD System, then look through there's a little bit of a

directory section, and then 10 specific recommendations, and those are the recommendations that came out of the – of the work that you described; was that on the board then?

A. Yes.

Q. Okay, I guess, before turning to specific questions about each of the 10 was there – was there any hierarchy among the – the 10, is it, sort of, 10 in order of importance, or – yeah?

A. No.

Q. Is any one any more important than – than the other in terms of the whole 10 issued?

A. I don't think one is more important than the other. I think some of them enable the others, so there's a little bit of a sense that you have to do one first before you might be able to get to the other, or that it would make better sense. But, I would say that the three goals that were set out were meant to be overarching, and inform the – the 10 recommendations.

Q. Okay, so I'll ask a – a question about those three goals before any of the specifics of the recommendations. They're set out in front of us I don't think I need you to read them, but if - what overall – what's being communicated in these

three goals?

A. Well, these are really the – these are meant to be the, I guess, the guiding lights for our way forward, and really reflect the challenges that are laid out in the document and have been laid out in other – in other places; this is what people are really committed to at the end result. If we were able to say that we've moved on these things we will have really transformed the system.

Q. Okay, and they – they influence each of the – the 10 recommendations…

A. Yes.

Q. …or policies?

A. Yes.

Q. So I'm going to turn then to the 10 recommendations, and we'll see you understand what – the questions I'm going to ask - I'm going to ask with respect to each of them. If you can explain what you understand that recommendation to mean, like, in part of the drafting of this and the landing on the recommendations. And my follow up will be between the time of the road map and the point in time today, what, if any, progress has been achieved in – in – in following-up on that occasion. So the first, is called Person Directed

Planning and Navigation, and says

"Established Person Directed Planning and Navigation as a process available to all individuals with disabilities and their families across the lifespan."

Q. So, legal words, what – what do you understand that recommendation to be covering?

A. Well, if you think back to one of the goals; the greater self-direction choice and control by person – people with disabilities and their families, the way that the committee thought that that could be achieved was by having – planning that was really, not just centered on the person, but directed by the person. And that settle difference in language is one that we spent a significant amount of time talking about, because, I think, we already had systems that had a person at the center of it, but this was a step further this was actually having the client take the lead, of course, always with the caveat to the - with the supports that they would need to do that, and to the extent possible. There are some clients who would have a substitute decision maker, or there would be some clients who would be able to make

decisions in some areas of their lives, but not in others. So, it really was about finding the client where they were, and then I think the – the underlying piece was a bit of respect – respecting the fact that for many of us – most of us, we get to plan how we want to live our life, we get to make decisions around that, and we get to set a goal and then work towards it; we get to be part of articulating that, and anyone who is a parent would know that that's something that parents do with their children, naturally. Sometimes if you're a – and this was greatly influenced by the parents around the committee; that if you're a parent of a child who is growing into adulthood, you don't always feel that – that young – that you have the ability with that young person to create a plan for their life, and it starts from the ideas that the first question should be; you sit with the client, the person themselves and say "what is it that you want?" And – so this is really about creating that – creating the structures that would allow people to create their own plans, and the navigation part is, again, lots of conversation about it - I wish that systems that were so simple to use that people didn't need a navigator, but until that time comes

there's a recognition that we need people. Particularly if people are in crisis, or if people are in a heighted state of vulnerability, they need someone to rely on to help maneuver through sometimes complicated systems, whether it's our system, or health, or education, or accommodation thereof. And so that was really what it was about is – is what are the conditions we can create so that individuals get to make their own li – life plans, their families get to be part of that, and what supports would they need external to help navigate people through that.

Q. Okay, so having described that as the – the goal described here, what progress has been made in moving towards that goal since the time of the road map?

A. I would say there has been some progress, not as much on this front as – as of yet. The progress has really been around us, so far we've been working with our staff, the care coordinators we have around the province, again, as part of our transformation agenda we – we've introduced the idea of – and I would say in this program in particular it's actually strengthening somethings that's a core value of the care coordinators

generally, which is that they want to find ways to have the client at the center. It – so we're trying to remove some of the administrative and bureaucratic behind the scenes things that allow – that, you know, focus them to do things – to focus on paperwork, rather than focus on the client work. So we were trying to remove – do our piece, I guess, to set people up so that we're able to have staff freed up to do the – help people navigate, and also do the planning piece, but this is one where we really want to tap into the expertise that exists in the community. So we have had conversations with a couple of advocacy organizations who, you know, are – would like to play the role of providing greater advocacy and maybe more program planning type supports, and also I'm thinking of one organization in particular that has had some success in working with parents to basically mentor and support other parents to help navigate through the system, so that's really what we're focusing on at this point. We've been trying to develop the expertise, and look to build some, again, support networks so that people have the resources in place. We have though, you know, I made a little bit of a snide comment about "wouldn't it be great

if we wouldn't need navigators." We have taken steps to try to simplify our own processes, because even though I – you know, we're nowhere near where we could be we want to try to make it as simple, and as transparent, and understandable as possible for people, and that's sometimes hard with a lot of layers of approval so we're trying to – to work on that. So that's really some of the things that we've been focused on under that area.

Q. Okay. So – and you talked about, I guess, reducing administrative burden and - and paperwork, and then you also talked about simplifying your own processes. Is there any, sort of, specific examples of what's been done in that area to help illustrate what you said?

A. So, um, I don't want to go too far field into the – the depths of bureaucracy, but one of the things that the transformation is built on is allowing the expert – allowing decisions to be made as close to the client as possible. And so I would say that in – in the past in – across all program areas there tended to be – there was the tendency that dec – if decisions were a little bit out of the ordinary, didn't quite fit policy, exceeded this level, exceeded that; that decisions were

being made at a head office level, and we've tried as much as possible to move the decisions as close to the client as possible. And so one of the ways that we did that is that we actually structurally changed people's jobs so that we now recognize that service delivery, or client service delivery, is an expertise all on its own, and so we don't have managers making decisions we have asked the specialists. We – we want the care coordinators and the specialists to be able to make decisions, and so we are continuing to look; we're currently in conversation about, you know, really the mundane on how – how far field out of policy can an individual go, whether it's a monetary piece, or whether it's a, you know, a judgement around care. But, we want the frontline worker to be able to make that call, so those things, again, the public is not necessarily going to see that that's been a significant cultural shift for us. It's a significant cultural shift that we have been, over the last year in particular, holding meetings with supervisors, with frontline staff, to actually talk about the desire to have a – a different decision making model. We don't want decisions to be made – I – I am not the person who should be making care

decisions, put it that way. And so, sometimes in the past our decision making processes have lead people to not feel comfortable making the decision on the frontline, and that's really where we want the decision to be made.

Q. Okay, and in terms of the Person Directive Planning I think that probably affects the way that the care coordinators do their work. Has there been any sort of training, or anything else that has changed their job under this circle?

A. Yeah, there has – I mean, there has been conversation. I'm – I'm not sure if there's any – been really specific training on that. I know that we did have – we had our Executive Director travel around the province and hold sessions with staff to talk about some of the changes in DSP, and particularly the focus that we need to move our big system to one that the client is at the center, and our role is in supporting the client and their family – family, if the family's involved, to be able to be the decision makers. And in order to that we, you know, we need to have a menu of options that we can make available to them. So, staff have been part of that conversation. There hasn't been one particular point I could point to and say, you

know, "We did one thing and it made a 180 turn," like all of our work it is definitely a work in progress, and part of the culture shift is about giving – is about things, boring things, like having the right IT systems in place for – so the staff are able to concentrate on clients and not on the administrative duties that we've assigned them, so it's all mixed up into one.

Q. Okay, and before moving on from this – this recommendation the – you – you talked about new programs that were introduced, you mentioned Flex, and – and some other aspects of the, kind of, services offered at the DSP.

A. M-hm.

Q. So is – is there anything about the new programs that, sort of, falls under this – this goal of establishing person directed panning and navigation?

A. Well the – the Flex Independent program in particular, is a response to individual planning; the desire. I think I mentioned before that we had heard from many families who said, nicely, "Get out of our way," you know, "We – if we – give us the resources we'll make decisions and we'll be able to…," you know, "we'd like to be part

of the care solution as opposed to waiting for you to – to do that, or wanting you to do it at all." And so we had some demonstration projects where we, you know, tried some different approaches, and that really lead to the Flex Independent where families are supported. There's financial support that's provided, but families are very much involved in the creation of a design of what that – what that support model looks like for their family member, and their family members are involved as well. One of my, you know, favorite examples in terms of success is the – the three young women, all of whom have down syndrome who are living on their own in Dartmouth. The learning that they helped us, you know, that they brought to us had really helped us define the Flex Independent program, because it's very much about what we could – what the families wanted to – to – what the families were able to support, and what we were able to bring to the table, and they are able to, you know, have a quite independent living situation that really was based on their plan. It was – we – we filled in some of the gaps, but it was actually their planning process so it's a great example.

Q. Okay, and so that's the Flex Independent

program that you described that's new since the – the road map?

A. Yes.

Q. Okay, and with respect to – again, around the person director - or person centered planning, you alluded to this a little bit earlier, but has there been any effort to focus on the assessments of individual participants, or?

A. Yes. We've spent a fair bit of time talking about assessment. So our – you know, we have used assessment tools in the past that were sufficient for the purpose in the past generally, but we know that the assessment tool that we have been using isn't actually one that will help necessarily inform a conversation about, you know, what's the right menu of supports, because, you know, assessing whether a place or a placement is appropriate for someone, or assessing them to see if they can, you know, work within this particular placements that's available, is a very different piece of work than assessing what their capacity is to live independently, and assess sort of, you know – getting to build a life plan; that's very different then what we've used assessment for in the past, so the tools that we need to change in

order to support that. So we have been looking at, and we have received approval, to introduce a new assessment methodology. So we're really in the – right in the middle of testing out different options, and making sure that they are based on the goals that were set, which are really about a person directed, client-centric inclusion model as opposed to a medical or disability model.

Q. Okay. And that, again, we've heard through other witnesses some comments on the usefulness of the Department assessment tool, and I won't take you to them, but there are documents talking about the validity of that assessment tool for – for the purpose – for whether that assessment tool is valid…

A. M-hm.

Q. …referred to in some documents. Can you just explain then what the – what the question is that's being looked at in terms of whether the assessment tool is valid, or not?

A. Sure. My understanding, and again, I – I don't have the frontline experience of working with the tool, but my understanding, and certainly what I've seen in terms of reports back to me, is that the tool was a point in time selection that served

a – the purpose of being able to - and I – it's not a word I – I'd like to use in our system, is to classify the – the types of needs that people might have. And so we absolutely would have questions about its – well, I think we have opinions on its validity as we move forward. It's – it's no – that's no longer the orientation that we have, but it did lead to the use of that tool, again, because it's, you know, it is just a tool; it's not infallible. It was a tool that was used sometimes differently by different staff, and there was different assessment, you know, different weight given to different pieces. It certainly wasn't a, you know, a perfect indicator of what actually an individual might need. So, in that sense, you know, I think we – we look – even using that tool when we're doing assessments we have to then layer on; that might be assessing suitability for a program that was developed 20 years ago. It's not going to assess suitability for – for services going forward. So it's finding a way to take what is good out of that information, and acknowledge that there's some – there are significant flaws particularly in its application, which hasn't always been consistent.

Q. Okay, and in terms of the current state you said you got approval to introduce – I may not be saying word for word how you said it, but approval to do something with respect to this assessment tool. Is there – is there an assessment tool that's, sort of, on the verge of being launched that is the – the final end game, or is it still a work in progress?

A. So the last briefing that I had, last update that I had, is that we are close. People have been testing different tools looking, again, do what we always do, which is look to other jurisdictions, see what they might have decide what would work in Nova Scotia's context, work with our colleagues at health to the extent that there's overlap or not. So, we've done all that work, and the last I've heard is that we're at a place where people are about to make a recommendation to me and to our executive team about what they believe will be the tool that will – that best meets out needs. Again, I – I don’t think there is – if there was one tool that we knew would meet all of our needs and would be absolutely flawless every jurisdiction would be using it, it doesn't exist. I have this conversation with other jurisdictions all the time

about, you know, what is the best standard. We need to find one that meets most of our needs and that will, most importantly, align with the goals that we've set for ourselves.

Q. Okay, and that leads to another question I was going to ask you about the assessment tools. Has – has there been a review of the best practices, and is – is there somewhere else in some other jurisdictions, or an example of a jurisdictions that has got it right and we can adopt that tool?

A. There has been a review. Again, there's no one place that has it right. There are features of different assessment tools that we like from different jurisdictions. I think one of the – the challenges, again, is you need to be clear on what the purpose of the assessment tool is and – and when the outcomes for your programs start to change, or to evolve, you need to recognize that that tool may not be adequate as, you know, as those changes happen. So, we haven't – we have yet to find the perfect system that has that kind of flexibility that we're looking for. Again, working with – we work with other jurisdictions on this all the time to – to see what they're using. For me, the – the main point was at the very core it needs

to be an assessment that's based in – on where we want to go, on an inclusion model as opposed to a medical model. And a lot of – a lot of jurisdictions have been able to take their former medical model and just tweak it, and we actually want to have a mode that doesn't have this as – as a foundation that disability is an illness. We want to have a model that has – that has its – its foundation that this is about empowering people to live inclusive lives; a totally different orientation.

Q. Okay, so I'm going to move next to the next recommendation, but just as a – as a global comment here, I think it might be a case that some of the things you talk about could apply to several of these recommendations, so I encourage you to…

A. Okay.

Q. …don't – don't feel the need to be redundant or repeat, but if there are things that you want to allude to that you've already talked about that apply to – to a further question…

A. I will try.

Q. …then do that. Perfect. So the next recommendation is entitled Individual Personal Disability and Family Supports, and it's described there. I don't think we need to read it it's there

in front of us, but can you explain to us what you understand this recommendation to be addressing?

A. Yeah, it – it really comes back to some of the things that we have already talked about, which was the, I guess, inherited suite of services that we – that we developed – sorry, that we inherited, and then we added three community-based streams; Alternative Family Support, Independent Living, and direct Family Support, both adults and children, we added them on top. And then later we added the Enhanced Family Support, and so there – there was a perception that all of those things were not really – they weren't necessarily aligned in that they – that it meant that families and individuals, and sometimes staff had to, you know, make a judgement call about what is the – which is the best one? And so there was a desire to say, "Let's – it's one program, like, these are just variants, these are menu options," and so that's really what that's about, you know. And looking at it now, you know, I – I think we may have been caught up a bit in the semantics of it, because it wasn't necessarily a fundamental problem with those programs it was that we didn’t like how they were independently run, you know, there was actually,

like, different staff for different programs. And so I think the core of it is that we are looking to build a comprehensive menu of supports that again, you know, I'm repeating myself; puts the client at the center, that it doesn't actually matter whether it's from this program or that program, that's actually something we have to figure out behind the scenes. All the client and their family needs to know is that this – you know, be clear what they're asking for, and then we actually have to provide services to meet their needs as opposed to trying to fit them into a box. So, you know, that's really the conversations people felt that, historically, we had – government had kept creating new boxes and then trying to fit people into them, and we needed to, in line with number one, completely shift our philosophy and have the person in front of us, and then design supports around that person.

Q. Okay, so with that – that goal described what pro – what, if any, progress has been made since the time of the road map in achieving this goal?

A. So, again, as we, you know, grew to understand more of what was really needed we did – we did, you know, redesign a little bit inside of

our disability supports program so that it – it's not that we have a bunch of people running each individual program, but we now have things organized in a bit more of a holistic way so there's one person who's looking at, sort of, the strategic piece, the long-term planning, someone else that's looking at services and the per – you know, and supports, not as much matters what the divisions are. But more importantly than that is part of our transformation, we've created an outcome management, you know a framework, which, you know, seems like just nice words on paper, but it's not for us. We actually spend significant time monitoring our progress towards those outcomes, and so…

Q. Sorry, when you say, "monitoring our progress towards those outcomes," what – what outcomes?

A. So the outcomes that we've – we have set outcomes for the Department that cross program boundaries, so the things like clients need to be safe and secure, clients should have choice over – be able to make choices for themselves, clients should be able to be included in their community. And so what that looks like in each of our program

areas whether it's employment supports, income assistance, or whether it's child welfare, or whether it's this program; obviously looks differently and we've taken that down a level. So if we really mean that we want clients to be safe and secure, what that means in the child welfare world is these particular outcomes, what it means to the disability world is another set of outcomes. And then we actually monitor our progress by setting some indicators that we can move towards. So what we've done here with this, with the family supports, is we're measuring on a monthly basis, how many people are living in community, how many people are moving from large facilities into community, how many people on the wait list want this particular option, like, we – we actually are building a system underneath to support that we're operating one program here. We're not operating a separate suite that clients have to figure out what's best. We are moving ourselves, and measuring ourselves and our ability to move around a client, and – and meet their needs with them at the center.

Q. Okay. I have some – some specific follow-up questions, but maybe as a general follow-up to that, you described a lot of things that I think

might be seen as changes behind the scene…

A. Yeah.

Q. …internal changes, but I can imagine somebody who's interested in the move to community-based living saying "What does that have to do with the ultimate goal of getting people to – shifting away from living facilities and towards living in community," so can you just, sort of, explain to us about how that relates to that – that broader goal?

A. That question, or – or the question of what real progress, you know, where's the proof of more people living in community is the right questions, I think, for us to answer. We have made modest movement of more people moving to community since we started this transformation, but what we have made monumental progress in is creating a different foundation for the program. So, you know, when I spoke earlier about it being a mismatch and all of those things, all of those things had implications on the ground for clients and for staff; that we did not have a designed system. So our system and the – and the successes that we had were largely because we have excellent staff, who have been able to work despite a system that wasn't always designed to actually help them make good

decisions, which they are more than capable of making. We actually – so we could spend a whole bunch of time, you know, I guess, going out and – and changing things, but it the foundation underneath it - if we don't have the strong policies, if we don't have clear outcomes, if we don't have the relationships with service providers that we need, if we don't have the relationships with the Department of Health that we need; if we don't have all of those pieces that will be for not. It will still be our staff acting individually against a system that's not designed to actually do what we want it to do. So, it is frustrating, it's frustrating for all of us involved in the system that we can't – we can't make things – we can't make change happen, you know, beyond what humans are capable of – of doing. You know, it's – I would love to have a magic solution here; don't have a magic solution at all. What I do have is – this is really – the past three to four years have been the first time since I've been around, and from what I can see, the first time that we've been able to systemically identify what a strong program would look like, and then build the foundation for it behind the scenes. So even something as, this is so

mundane, but even something as simple as having care coordinators get laptops, something as simple as that, which seems like a mundane thing, is actually a – a key piece of people being able to do their job in a way that means that they're not going back to the office and rewriting their notes, and having to – to spend time doing an administrative piece. We want to build a system where there are care coordinators, they're using the technology that we have to – able to make decisions and support a client more quickly. All of those things, again, they sound really mundane, but without the strong systems underneath we will just continue to have staff making due, and we have to stop making do. And so the building of the foundation has taken – and continues to take time. And so some of the things that are in here we have not made as much progress as we will eventually make, because we've been prioritizing creating the system the right way.

Q. Okay, and a – a specific follow-up, I guess, when you – when you describe this goal you said it – it wasn't as – so much about making changes to these individual programs as making, sort of, other kinds of changes…

A. Yeah.

Q. …but are there changes to the programs that are listed here that – that have been done as a result of the – or since the – since the goal setting program. You – and I'll say, you described Flex Independent, which I think…

A. Right.

Q. …probably relates to that, we don't need to go over that again, but are there other changes to other parts of the program?

A. Yeah, there have been big and small. So I'd say the big would be the enhanced family support for children and adults, which was always a program that was in recognition that the monetary amount that was associated with the Direct Family Support program just was not sufficient to meet the needs of people who have very complex – complex situations, including sometimes quite significant behavioral challenges. And so the Enhanced family Support program was, you know, had been introduced, but it was not available to every family. It was, you know, we – we had, I guess, a budget restriction that every few people would be put on a wait list; that budget restriction has been removed. So, we now have an unkempt program so that if people need

it they will get it, which in order to make that – in order to make that real that took, you know, behind the scenes preparation of information, and information from the frontline, but then information from us to decision makers on why we felt this was needed, and what the implications would be. And so it, you know, it took a little bit of time, but that's a significant change; we had families who within, you know, as soon as it was announced, were able to access significantly more support, and so that's just one example. We've made, you know, I would say smaller changes within programs to some of the, you know, the rules around funding, around independent living supports, and how we process payments and those things, which again, all towards the goal of making the system run more efficiently so that we have a staff able to focus on doing what they do really well, and not on, sort of, the administrative bureaucratic pieces. So – so, you know, I – I'm not the person to ask about them, but I do know that all of – it is not an overstatement to say that every program in our department has been under some form of review for the past three years, and so the DSP program would be absolutely top of the list.

Q. So I'll move now to the third – third recommendation; Individualized Funding Mechanism. So again, it's described there I think this does relate to some things you've talked about…

A. M-hm.

Q. …so without necessarily being redundant, can you describe to us what the goal is that – that is set out with this recommendation?

A. Yeah. So, you know, this is – this is, I think, really where we would – we really want to get to, because it allows a level of individualization that our programs sometimes don't have, or haven't had traditionally. It is one though, that requires some other things to be in place, absolutely, so, you know, I see this one very much as linked to number 1; the Person Directed Planning, and, to some extent number 2, as well it absolutely is linked to assessment, and by that I mean…

Q. Okay, well, before getting into what it's linked to, I think, just sort of…

A. Okay.

Q. …like, what is individual – Individualized Funding Mechanism?

A. Fair enough.

Q. What is that – that end goal?

A. Fair enough. So the leaders in the world in Individualized Funding is – are some states in Australia, where they actually provide, you know, they – they have an assessment capacity, they determine what is the – the limits of that, and they provide that to the person with a disability with their family, and that's the end of the government involvement.

Q. Okay.

A. That would work for some people for sure, wouldn't work for everyone at this point in time, but – but the idea behind that would – gives the – the client as a consumer incredible choice in being able to purchase service where they want; so that's the idea behind it. But all those things that I just said, it assumes a whole bunch of things are in place, it assumes that the services they want to purchase are actually available, and there is a government role in making sure that those services are available, and that they're quality, *et cetera*, *et cetera*. So it's not just about changing the funding way; it's that you have to make sure as well that people have the ability to make – to have the ability to actually make their own

arrangements, and want to make their own arrangements. So it was – it's something that we absolutely wanted to work towards. I would say that not – unlike other conversations it, you know, it revealed a fair level of distrust that maybe government staff aren't the best people to help people plan, and that's why you see the, you know, the – you know, there could be direct funding, or there could be third party. There's a bit that maybe other – you know, someone – there should be an agency or organizations outside of government to help people with their planning. Again, that would be a piece of work that would need to be done in order to establish that, particularly if we – if we have – if we're thinking of some of the vulnerabilities of some of our clients, we wouldn't want them to be at the mercy then of someone who was providing services and there was no oversight. So, it's an incredibly complex area, again, a few jurisdictions have done it, not a lot, but a few, and it's something for us to absolutely keep our eye on, because for some families, and again, I did mention already Flex Independent, there are some families who've already put their hands up and said "We would like to have a greater role in purchasing

the supports that are available to my family member, and we want to play that role." Not all families will want to, or be able to play that role; for those that can, you know, I think if we move in to even greater autonomy would be – would be helpful for them. There's no one size fits all.

Q. Okay. So I guess that – I think I clearly understand, sort of, what the end role was. And I think, Dr. Bach, in his testimony referred to this in some way, and refer to the, I think, the Australian models that you referred to. So our – I cut you off, you were saying this is related to some other specific pieces, and I think you were talking about the relationship between what you – what you've said about assessment and this goal. So can you…

A. Sure. I mean…

Q. …pick up there?

A. In some ways all of these are, of course, liked to one another, but the idea of moving to an individualized funding mechanism is really reliant on us having the – not just the processes and the supports in place externally, but us having an agreed upon assessment methodology that – because as much as we – as much as we want to provide

individualized person centered supports we also need to have a framework that we can put like – people who have like-needs together, in a sense that we have to create a funding framework there has to be something. And we have to create a service menu; there has to be some way of hanging services together it can't be starting from scratch every time. So again, that's our work to do. The assessment methodology is crucial for – to us to be able to determine what the service needs of our clients are now, and frankly, what are the needs of our clients that are coming in the future? Part of the capacity we're building is we're trying to build – that we can do better modeling so we know who are our clients coming in the future, as opposed to reacting and waiting 'til the client comes to our door; we want to actually be able to plan around some of the changes in demographics. So to get to that we need to have an assessment methodology that we can rely on that actually says "So if people present with these types of characteristics, which may relate to their diagnosis, which may relate to behaviors, which may relate to any number of things; that is likely to result in them needing X Y and Z service," and then only after that is then

the conversation. So what then - what is the resources that could be allocated to X Y and Z services, and how would we, again, follow the basic – the basic idea that people who have experienced greater challenges have greater depth of disability or exclusion will probably need more resources available to them. So, you know, they are all linked one to the other.

Q. So, I guess, based on that we can see how the work on the assessment tool relates to this. Is that the – the main piece of work that's been done towards this goal, or are there others? Is – is there other work that's been done with this kind of…

A. No. No, that would be main up until that I would say the – the only other thing is – is really the learning that I've described. You know, we have – we have had conversations with people in Australia to help us understand how that works and what that could look like. So it's trying to take the information and put it in a Nova Scotia context, but we've really been focusing on the more fundamental pieces first.

Q. All right. The fourth goal is titled – of course – sorry, the fourth recommendation is titled

Equal Recognition of Equal Capacity and Support…

A. M-hm.

Q. …In Decision Making. So the same question - not needing to - to read the doc. Can you describe what you understand that recommendation to be capturing?

A. Right, so we do have a lot of conversation with the committee about this. It is act - it is the fundamental belief that people need to be able to make as many decisions as possible about their own lives, and there are - because of the nature of some of the disabilities that people might have; some of which might be episodic, there may be times when they're - they're not able to make the full range of decisions for themselves. So - and how do we actually make sure that it's the client making decisions as much as possible, and not their service provider, not their care coordinator, not their family, without taking into account the wishes of the clients - and it is - it is incredibly challenging. The supported decision making pieces is a bit of recognizing that not everyone that we work with is able to verbalize what they - what their wishes are. Not everyone is able on a cognitive level to be able to distinguish

some of the nuances that might be required for them to make decisions. So in order to do that, the idea of supported decision making, which is using different tools, and having staff that were, you know, particular – had – had a particular skill set, whether it's our staff, or staff who work in – with the service providers; able to use different ways to support someone to make a decision. And so it's really that whole area of, you know, a bit about competency, but also more than that it's – it's not just a question of legal competence it's a question of – of being able to – even if someone might not be competent to make all of the – you know, care decisions, they still might be able to make decisions about who their roommate is. And so how do we support as much as possible that individual getting to make that decision; that is really the – the basis of it.

Q. Okay, and so the same follow-up question, what, if any, progress – what – what steps, if any, have been taken towards achieving this – this goal? Again, there seems like there were two components of the goals that you were describing.

A. There were, yeah. Yeah, there are two. I would say the first one, kind of, took on a – a

life of its own and was part of the conversation that lead to some of the changes around what happened to the *Competent Persons Act*, and as well the *Substitute Decision Making Act*. So the – that became intertwined in the consultations around that – that I – we did have staff that were involved, you know, as part of the – the committee that was moving that forward. It became clear that – that Act, the amendments to that Act were really – and what's happened, really the first step that was about really substitute decision making, and there were people who said "Yes, well we really need to get to what is the framework around supported decision making," they're different. So the work on the supported part hasn't happened yet it, kind of, was taken over by having clarity around the substitute decision making piece, which resulted in a legislative change; so that really – so our work has been very much supporting justice in that. We did have some initial conversations with our own. We had some staff at the time who had some background in supported decision making, and they were able to provide some clarity on what the different models might be. This is another area where I've listened to the wise counsel of some of

my colleagues across the country who have gone a little further into this. No jurisdiction has gone fully into it, but some have gone a little further, and again, given the vulnerability of some clients, really want to make sure that we're not empowering people to make decisions on behalf of without having the real rigorous understanding of what's the best tools to use. So this is an area where there's still lots of work to be done, and my preference would be – is to – is that we're able to do that, to take advantage of the – the group of deputies from across the country that meet that we can actually have conversations about that, and maybe come up with a standard of practice that we could look at applying, not just in Nova Scotia but other, because it is really tricky and – yeah. It – it's – it's, well, it's really tricky; it's – we need to find a way to have a way to have clients have a voice as much as possible wherever possible, and we have to make sure we're doing that in a way that, you know, can be – can be defended.

Q. So the next recommendation, I think, is – is one that's gotten a bit of attention.

A. M-hm.

Q. It's called Reduce Reliance on – Reduce

Reliance on – it must be Reduce Reliance on ARCs, RRCs and RCFs (inaudible, mumbling to himself) – whatever, it says Reduce Reliance of ARCs, RRCs, and RCFs; goals described there. Can you describe to me what you understand that recommendation to encapsulate?

A. Yes. So this is – this is the big one, which is about really changing our residential model significantly. So while, you know, we don't – the majority of our clients don't live in these facilities there is still an over-reliance on these facilities, you know, with our current numbers. And so the desire is to actually phase out the models that exists in these three areas – phase out over multi-years. So this was a little bit around the five year/ 10 year piece that we talked about earlier, but, I guess, that's where I – the line that is really important is the last, which is the development of necessary community-based alternatives, and that's really what we're trying to do, which is create a community-based model before we close the residential model.

Q. Okay, and so I want to get into the specific wording of this, again…

A. M-hm.

Q. …because it strikes me that it's – it's stated as "reduced reliance," as opposed to; I don't see the word "closure" appearing here, but what – what's your understanding of the – the goal that – that's being expressed in this recommendation in terms of reduced reliance versus closure, or some – something that falls in between?

A. Now, I think the language "reduced reliance" it was chosen carefully. I don't think it – certainly I didn't take from it that it was in anyway a softening of the desire to close large facilities. So, you know, I – I never read it, and I don't think it was intended by our committee to be - that we were going to just have less people in them. That they were going to continue exactly as they are, or we would have less people. I – that – so that wasn't really the intention it was really – I think the wording was recognizing the complexity of the task that we have ahead of us, and that's really why the language was the way that it – it was. It's the clear commitment that people really wanted, they wanted government to say out loud for the first time, "We will be closing larger facilities," that's really what people wanted, and I think that was the – the piece; they wanted to

see that concrete action. Yeah.

Q. Okay. So – and you said this is a – this is a big one so what, if any, steps have been taken towards the achievement of this recommendation?

A. Well, some of the things I've already talked about, you know, I – I would say almost all of our efforts have been in aid of moving towards this goal in some way. So, you know, even the simple things of assessment are actually about us understanding the clients that we are serving currently in these – of these facilities, and the clients that are on our waitlist, who may in theory, could have been served by these – these facilities. The most significant thing that we've done is we have worked with the group of ARC/ RRC services providers, so that group is an established group that – that has nothing to do with our transformation they have their own, sort of, professional organization that they – they meet as a group. We did have a member of that group be part of the road map, and so that's actually a – you know, for me it was a significant achievement to have the organization that is – that is made up of – you know, large – large facilities be part of a document that said we're going to basically put

ourselves out of business. And that's really the – the approach that – that has continued, which is engaging those service providers, because they're serving large numbers of people, and we need them to be part of a successful transition. So the practical form that it's taken since the road map document is that we've engaged with that group quite specifically, and have planned, you know, an – an approach over the – the next few years on how we can look at – how we can start to move to closure of the programs in these facilities. So we started – we decided to start with two so that we could actually get a handle, again, get a handle on the complexity of what we were going to uncover, and so we started with the Quest facility here in Sackville, and the Breton Ability Center in Cape Breton will be next up. And that is dedication of significant project resources to significantly, you know, assess client need, assess paths for clients to live in community, what some of the resources will need to be in communities to support those clients, and then the costing of all of that so that we can start to plan for what that looks like. And, you know, we deliberately chose to start with two facilities that were on the RC, the regional

rehab side, who have some of the most, you know, have some of the most structured environments that they currently provide. And so we needed to actually understand how to support clients who are currently living in a very structured environment, and what that would look like for them to live in community. So that's really the – we are – we've kept the – those service providers on board; they're actually more than just on board they're anxious to start to redefine the future for their clients, which is amazing. And of course getting the other service providers, which is the receiving service providers being part of that as well, which is those that operate small options and other facilities. So that's really where we are; we are in quite in-depth planning with – with those two, and then we'll be able to extrapolate a bit we hope from there.

Q. Okay, and so you said quite in-depth planning with those two; Quest, and Breton Ability Center…

A. Yeah.

Q. And I want to relate this to maybe something we heard earlier in the Hearing about some meetings that happened at Quest that one of

the witnesses was – was part of that happened very recently.

A. Yes.

Q. Are – are you, sort of, familiar with the status of what's happening with respect to that plan for Quest?

A. I know that there has been a meeting with family and – with the clients and their families and that's really the extent of my involvement…

Q. Okay. Fair enough.

A. …just to sanction and say "Yes, please keep going."

Q. Okay, and that – that meeting was very recent?

A. M-hm. Last week.

Q. Okay, so - and just so we can, kind of, put that in context, you said Quest and Breton Ability were the first two that you openly had.

A. M-hm.

Q. Was that meeting with families that was – was last week, was that the beginning of that process of – or, kind of, where does that fit in the – the plan of looking at closing Quest?

A. No, that would be – that would be just, you know, a point along the way. The conversations

with Quest have actually been going on, and I would say the conversations with and the planning for – the behind the scenes planning with our own staff have probably been months in the making. The reason it's important for us to plan to do it carefully, while generally speaking I like to go a little, you know, to take a few more risks these aren't my risks to take. We have individuals and their families who are – want to be part of what's going on, and want to have a say in what the pace and what the options are for them. And so we have to make sure that we're not creating – I think one of the worst things that could happen is if we create a sense of panic in people that already have a lot of challenges in their lives that something is going to happen that they're not going to have any say in, or control over. So it's been important for us to, sort of, gather ourselves and be as organized as possible before going to clients and their families. And only go to – to clients and families when we actually have some ideas that we can share with them, and have them be part of planning what the next phase looks like. If we weren't going – you know, if we just wanted to say "Okay, we're going to close and this – these are the 10 steps we're

going to do," we could do that, but the peril of that is that we will not have involved the clients and their families, and we won't have acknowledge the individual needs that they have. Because we're dealing with, you know, particularly in – in Quest the – the folks that are living in Quest have very complex, multi-level challenges by in large; we have to make sure we're doing it really respectfully.

Q. Okay, so again, just focusing on the – those two institutions we could say the – the work has begun. Can you give us – can you give us now a – a date for when those facilities will be closed?

A. No.

Q. Where are we in terms of setting a date, or anticipating what the – what the close date is for those two facilities?

A. So we're – our – our plan is to work with families – individuals and families into the fall. So I believe at that point in time people will be able to come forward and give me some ideas, give us some ideas on what the timeframe might be, and what's in the art of the possible. And whether that would mean a – a, you know, a firm date, a phased approach, whether people – we – you know, what the

– what do the individuals and families want, what is – you know again, what's in the art of the possible. So I would not – I really would not want to put a date out there that would make people start to worry until they've had the opportunity to be part of setting that date.

Q. Okay. So we – we've focused a little bit on the – on the work with the facilities part of that, I guess, I should say we've talked about two facilities that – that…

A. Right.

Q. …there's been work with. There's more than two facilities out there that will be impacted by this. Well - so where do we stand with respect to other facilities that we've heard about, well vague on the specifics, but beyond Quest and Breton Ability?

A. Sure. So, you know, as I said we continue to meet with the overall association, attend their meetings so the other organizations are part. I would say each and every one of them is having conversations at a board level and – and we're invited to some of those conversations, and probably not to others that we're not aware of, about what the future of those organizations look

like. You know, they're - some of those organizations are large employers in smaller communities, so I'm sure there's municipalities and others that want to know of their future. What we have said to them, and what I believe to be 100 per cent true is that we need all of the expertise that they have in their current delivery model, we will probably need a lot of that expertise in a different delivery model, but we don't know what that model looks like. So this is - this is very much about transforming how services are provided now in a large setting to more individual settings. And so - and at the same time some of those are, you know, are not just large employers. They're large buildings; they have assets and infrastructure that, I think, they are - I know that some of them are starting to have conversations about, well what does that look like, what could the future be with this building that we have if we want to continue to provide some services and supports to these clients; how could these buildings be used, could they be - could they provide day programming, could they provide a respite stabilization support? I think people are really in the middle of those conversations, and we have ideas about them, but

again, it will be based on what do the clients in those areas actually want. So if that's the case then some of those, you know, the future for some of the organizations; maybe the organization goes away. Some of the organizations may morph into something different that's all very much depending on who are the clients – who the clients are at that time and what they want.

Q. Okay, and still focusing on those larger facilities my understanding is that there have been people who have been place in – become resident in those facilities since the time…

A. Yes.

Q. …of the – of the road map. So can you just describe to us what's the – what's the status of, sort of, new people moving into those larger facilities?

A. Right. So we had said that we would at a certain date stop the permanent placement of people into the larger facilities, and so we have – while our overall numbers in those facilities have gone down as I – as I've said, we have – when people have moved out moved in people on a temporary basis if the bed is there. We do so with, I guess, a couple of caveats, is we – we have the individual

and the family understand that it is a temporary measure it's generally because there's a, you know, there's a crisis, or there's a stabilization that's needed. It's not meant to be a long-term solution, so they go in knowing that this is not going to be the permanent home. That being said, people sometimes get – you know, people are getting attached so we understand that, but we can't not serve people. You know, I – I think certainly the direction that I've received is that we have to find a way to balance the two things we're trying to do at the same time, which is build a new system that is based on the road map and that is person centered and inclusive, and all the things I've already talked about and continue to meet the needs of people that are currently in our system, and that are presenting to our system. So we've – we've continued to have people that are placed; what we have is we've received some funding and we have staff that are looking at how do we continue to transition those – those folks. So that's, you know, another – you know, I guess, another thing on our task list is not just moving people generally, but to keep an eye on the people that have been placed temporarily making sure that there's plans

for their movement.

Q. Okay, and so you described those as temporary placements…

A. M-hm.

Q. …it's been called a temporary measure. What does temporary mean in this context, does that have a specific timeline attached, or is it more fluid that that?

A. So the guideline that we've set for ourselves is three years. There will be people who are able to move more quickly than that, there have been people who've moved on. There will be people who the three year – the three year may be a challenge, but ultimately they're in a facility that – it's, you know, we are still planning to move towards closure so there will be some movement at some point. It – it's a question of again, okay what does the client want, and more importantly what have we been able to create that gives them a real valid community option that meets their needs, and is one that is, you know, safe, secure and appropriate for them.

Q. Okay. So that focus we'll look at – oh, sorry, we're still on larger facilities that I have one follow-up question. There's been some reference

in the evidence to investment, continued investment in those facilities, so setting aside people who've come – who reside in those facilities, but…

A. M-hm.

Q. …financial support to those facilities, is it fair to say that there has been financial investment in those facilities since the time of the road map?

A. Of course.

Q. Okay, and so help me understand how the goal is not to be reliant on those facilities; what does it – how does it make sense that the province has invested money in the – in those facilities?

A. Well, because people live there. They live there. This is their home, this is where they're receiving services and support. We – we can't – because we know that a building might not be the building people are living in in five years, well that doesn't mean we should allow the roof to fall in, or the – even the – the room to be spruced up, or painted, like, people are still living there so we have to continue to invest in those facilities. It would be – I – I don't know a world in where we would say we're just going to let this – it not be an okay place for people to live. And

in addition to investing in the – the facilities we are investing in the organizations as well through – you know, there are organizations that are increasing some of their social enterprise work so they're actually create – increasing their ability to have job training and other pieces; that's great, that's actually part of where we want to go. We want there to be strong activities that – some cases are about inclusion, in some cases are about attachment to a main stream employment market, but who have, you know, a range of options. So it's not just – we have responsibility to not just keep the buildings open and safe, and – a – a, you know, a nice place for people to live in terms of the physicality, we have to make sure we're investing in their programming because again that programming will be part of our transition planning. So if – you know, people need to be able to get a taste of what some of the activities will be like when they are livening independently. The other thing is that we also have people who are in – who are living in facilities, but who actually are living – they're living there but they're working outside so they, you know, they have – they come back at night to sleep; we have that in a number of places around

the province. And we have the opposite where we have people that are living in apartments and small options but are going to that facility because that's where they have – that's where their friends are, and that's where there's some programming that they can access. So more and more we're seeing the line between that facility and community it's getting a bit softer, and that's okay that's actually what we – we need to have people to be able to see what life looks like in the future.

Q. And so that – that was a number of questions about the reliance on facilities part of this goal, I guess, the – at this recommendation the – the part it ends with is,

"In concurrence with development, if necessary, community-based alternatives."

A. M-hm.

Q. You have talked about some of the development of community-based alternatives already, and we don't need to go over that again, but specifically with respect to – to small options homes, sort of, what's the current state of, sort

of, developing that part of the community-based alternatives?

A. Yes, like everything else, we've discovered on this journey the desire to move is tempered with the desire to do it right. So we actually have developed, for the first time, criteria on what small options need to be, what they need to look like, and, you know, beyond their licensing, which is existed, but in terms of quality, you know, the quality of life that they're able to provide. And so we actually had a, you know, a process where we developed those standards and we're just in the – in the process now of holding meetings with possible service providers around the province. So that – I think we're actually done those meetings now, so that they can decide whether they're willing to provide, you know, that level that quality of service, or not, in terms of small options; so that is a great yard stick for us. It also allows us to get at some of the, I would say, softer – less about licensing, more about quality of life pieces that we know, we've learned through time, we've learned through research looking at other jurisdictions make or break people's experience. So things like having adequate common

areas, having adequate private areas, things that, you know, we again, all of us get to choose. So we want to make sure that when we're creating small options we have learned from our own experience, and the experience of others, about what are some of the softer things that would support people to be successful in small options. So really excited that we're finally at a place where we're going to start getting people bidding to build some of the new ones.

Q. Okay, and I guess, that was sort of some, I guess, process and standard…

A. M-hm.

Q. …partly to answer that question. Then you said "to begin building the new one," so…

A. Right.

Q. …just so I – in terms of on the ground what's the plan in terms of actually – where are we in terms of new homes being built, how many…

A. Right.

Q. …all of that, and has that happened, is that projected for the future?

A. So – so yeah, two years ago when the commitment was made to build four small options and then another four small options, so eight in total,

again, that was the proactive creation of small options as opposed to small options unnecessarily built. We – so we've opened one, which was significant renovation to an existing building as opposed to a new build, and that's in New Glasgow. And then we have two others that the families are in the middle of making some of the final decisions on where they want it to actually be located, and what they actually want it to look like; so believing that those are going to be happening relatively soon. And those were both – they've already been announced one is in Claire and the other is in Isle Madame. So that – so then the others will be the – the five remaining will be part of this process that we've just started, which is asking people to put forward and indicate that this is the, you know, this is what they want to do. We did – in order to identify the geography of where we were – wanted to – to go, we did a review of – review of the client profiles in various areas of the province and were able to point to some areas that we know that there are significant demand. So, for example, in – you know, in some area we were able to identify that there are significant number of women 50 plus, who have particular challenges

who will probably need a small option, and I'm using these as examples I'm not sure I'm going to get the details where I remember seeing the – the map. Other places we know that there are young men who might have significant behavioral challenges that will require very particular build. So that might – you know, we want to make sure we're building for that. So, you know, as all of this in our journey as we will learn some things for this no doubt, but we're – we're trying to do it based on the evidence that we have of who at this point – where – where are some of the pressure points that we know that there aren't – aren't as many options for those clients, and so that's where we're – we're focusing.

Q. Okay. So, Mr. Chair, we're at – we're at 12:30. I'm sort of in your hands…

THE CHAIR: That's…

MR. KINDRED: …that questions are going to continue to review recommendations…

THE CHAIR: Yeah. No – that's – makes sense. We'll adjourn now 'til quarter to two.

MR. KINDRED: Very good.

THE CHAIR: Satisfactory?

MR. KINDRED: And just so – so we can anticipate where things are going from here; I'll

ask some questions about the following recommendations. I'll have some general follow-up questions and that's really the end of my plans. So I – I think that we will probably be finished at some point in the afternoon.

THE CHAIR: Good. All right. Thanks, Ms. Hartwell.

RECESSED 12:29 P.M. TO 1:54 P.M.

THE CHAIR: Okay.

MR. KINDRED: Ready to?

THE CHAIR: Sure.

BY MR. KINDRED:

Q. So before we broke we had been talking about Point 5 of the recommendations, and just before turning the page to the – the next one – one aspect of what you said in – in discussing that you talked about – I was asking you about an example about investment in facilities, and how that kind of relates to the idea…

A. M-hm.

Q. …that you're going to close. And you said as part of your answer to that question some of what's invested in is in programming in that

facility that, sort of, will assist in…

A. M-hm.

Q. …people transitioning to the community-based – or, independent living, and so I think you were clear about that. I – I was wondering if you might be able to illustrate that with an example of treatment with the kinds of programming that you're talking about that have been put in place?

A. Yeah, I can. So an example would be, again, the example I give is the one I just referenced; is some of the social enterprise work that some of the – a number of providers around the province are doing, but, you know, in particular some of the – some of the larger facilities. I'm thinking about Breton Ability Center, you know, they're – they're creating employment and training opportunities for people who live in their facility, in part to provide them with opportunity to build their own skill set, see what's in the realm of the possible for them, but also I think to start to develop what the future for an organization like that might look like. So 20 years ago, when Breton was Breamore they were very much focused on what they were doing inside their four walls, and not necessarily with the same view of

outreach, and about supporting people to be able to participate in the community either through recreational, or even through job opportunities. So the fact the they're focusing on that and that we are providing them with support, or that we're providing support to other organizations, like some of the adult service centers that will have people who are residence from other facilities come and take part; all of that is to, you know, in a – in an incremental way start to build a capacity of people to be able to transition from facility based livening into community-based living. For some people their goal is to be able to attach to the mainstream employment market, that's their goal and so opportunities that can get them there that's great. For other people their goal is not likely that, it is to be in some – involved in their community in some other way, either recreational, or vocational, or something else. So, you know, again, there's no one fit, but the more that we can try different things and see what works, and try to also create a sense amongst the community that the natural place for people with disabilities is in our community, the better. So the more that there are actual integrated opportunities that - that is

all part of moving us in the right direction.

Q. Okay, and so having asked that I'll move down to number six. So number six is called Transformed Community-based Residential Service System. This sounds like it might relate to some of the things we've already talk about, but I'll ask the same question; the goal of the recommendation set out there, can you tell us what you understand to be captured by that recommendation?

A. This came from a conversation we had between advocates at the table and service providers all of who, you know, were able to share that – the role of service provider in providing the place based supports, such a crucial one in that it could be actually a transformational one. It could be, you know, a really empowering one, because of, you know, the amount of, I guess, control, and – and – around the environment that a service providers has in so that, you know, I think there was a great desire amongst the service providers around the table, and those who were able to demonstrate and talk about some of the expertise that exists in that sector already. But to talk about – they wanted to be part of a role of transforming the prevision of service from place

based to community-based as well – facility based to community-based. So it was really about, you know, setting a marker to say that this is – this is actually also about changing the role of service provider, which is about a whole bunch of things like everything else should you un-lift it there's probably 20 different subtopics. One of the things is about how the Department has traditionally funded service providers, and the inadequacies of our funding formula in the sense that they weren't – they weren't always based on the needs of the individual, but were in fact based on a whole bunch of other calculations; number of beds, *per diems*, a whole bunch of things. And so part of what this was about was creating the right relationship between the Department and service providers, and that would allow then service providers to be able to play an expanded, or probably an enhanced role in their prevision of service. And maybe exploring things like – are referenced in there, you know, maybe they would be able to participate in an individualized funding approach, or maybe they'd be able to play a different role in helping clients navigate systems, but it was really about seeing them as a crucial part of a systems, and not just

the place where people are sleeping.

Q. Okay, so having you explain that recommendation my follow-up question is what – what, if any, steps have been taken towards realizing on that recommendation?

A. So, you know, I referenced the funding relationship when we first started this our – our entire way of funding was really based on a model that I don't think anyone could remember how it came about. We had this process called rate review, which service providers had to go through a process where their daily rates were set, and some things were included in, you know, in that funding; some things weren't. It didn't really support proactive individualized funding. Every time that someone's need changed or anything, there wasn't really a process to be able to easily respond to that. And we had organizations – and still to this day is because we don’t have the kinks worked out for sure, but organizations that are not able to do, you know, the strategic financial planning for the well-being of their organization, and their well-being – that organization's well-being, of course, reflects the quality of care that they can provide. And so dismantling our system of rate review and moving to

something different, a different way of funding was really important. Again, it was about the relationship between us and the service provider. The next phase of that would be the relationship between the service provider and the client in terms of the funding arrangement, you know, whether we move to individualized or not. So I would say in term of how far we've gotten we – we have improved funding processes they're still interim; it took a – a while. There was some great work that was done by some service providers who came into the Department and helped us work through what some of those processes could be, shared what some of the pitfalls were. So we are actually in the process now of developing a more standardized approach to funding that is more transparent so that people can actually – can anticipate when there will be increases, what the criteria would be, just so we have these organizations that are doing crucial work so that they have a level of stability. So we are probably six months into our development of, sort of, the skeleton of what a funding – a new funding system could look like where it will be an IT system at some point. But we're still at this point, still working through what the rules are

underneath that with the hope that we'll be able to start a process where we're entering into new funding arrangements with all of our providers that are open, transparent, that the people know what to expect, and most importantly that there's a level of flexibility to respond to individual – individuals need, and that will set the foundation should we move into individual funding.

Q. Okay. And – and maybe as a precursor question – I should have asked this; The term "service provider," as I understand it, it could cover a broad range from, sort of, the large facility service provider to small options homes and other, sort of, ranges in-between, so just knowing that term is broadly used is there – does this apply to all service providers, or is it focusing on subset of those?

A. It does. I'm using it probably in its broadest sense, and I would include those that are residential service providers; so the whole range that we've talked about, but also those that are providing day programming, and more and more we're, you know, I don’t want to describe it as an epiphany, but it – it certainly was a turning point in some of the conversations around our

transformation, that there had been such focus on where people slept and not as much on what were the daily activities that they could be involved in, that were really quality of life activities. So really there's been a focus on, so what can we do to increase the day opportunities, the day opportunities, the community attachment opportunities for people with disabilities who – who are living in some of the facilities that we fund to make sure that it's just not about the quality of your – just the act – you know, daily living activities, but beyond that into a real quality of life conversation. So I do – when I'm thinking of service providers my mind traditionally goes to the ones that were providing the residential supports, but really I am meaning the broad range of service providers. Some of whom we haven't necessarily treated as service providers up until now, and I think that that's – part of it is knowing that there are all kinds of clubs and inclusion activities that we have a responsibility, I think, to – as we're going forward to work with them to figure out how they are going to fit into a community-based model service.

Q. Okay. So, I guess, you described some of

the goals, you focused on the – the funding. Just in terms of the – the process the – this discussion with service providers, is there some formal way that that happens? I think, for example, the ongoing discussions with service providers is going to take a particular from; is there a regular meeting, a committee, something like that?

A. Yeah, there are – there are multiple. So we've had, you know, we had an interim group that came together to work on some interim standards, and so that group meets. So if that's one of the committees you're thinking about, that's one. We have what we call – we've created – it didn't exist before, what we call a service provider relations – there's a – their fancy name too, but essentially it's if there are funding issues we have a committee of people that meet on a regular basis who are ready to hear them. And so one of the things we observed about the past was that when service providers had an issue, there wasn't always a clear path who to go to, sometimes it was just based on who their relationship was with, who they knew, who, you know, had been around. Sometimes it was through the financial stream, and sometimes it was through the program stream, and so we wanted to have clarity

that it had to – these issues have both a program and a financial lens. If there's a – a issue of funding with the service provider sometimes that relates directly to a need for increased staffing, but sometimes it was an unforeseen thing happens with the service provider. We've had everything from, you know, someone's needed a furnace replaced to – there have been service providers that have had significant issues, or challenge with a particular Executive Director, or something like that and they – they've needed some sort of stabilization support so any of those things. We have a group of people who meet on a regular basis so we know that there's one place that there's going to be where we have finance, we have our program experts, we have people are – who's responsibility it is to work with service providers so that we can – we have, I guess, a path for things to come in; that kind of clarity we really haven't had before. The other things, there are groups of course, I've mentioned the ARC/ RRC group, but there are other groups that a lot of organizations belong to like the Nova Scotia's Residential Agencies Association, or others. And so our staff do maintain relationships with those organizations, and often

speak at events, or meet individually with organizations. So there's not as many, I'd say, closed doors at least I would hope not. Our intention is that we're trying to leverage everybody's expertise in pulling things – pulling things forward.

Q. I – I asked you, sort of, to expand on the definition of – or clarify what it meant when you said service provider. You talked about the range of service providers to whom this kind of nonsense applies. Has there been sort of an expansion of service providers involved in different parts of the – of the DSP?

A. Informally, I'd say yes. So – and what I'm thinking about is some of the funding that we had made available to create day programming opportunities as I've discussed. And so one of the things that we wanted to make sure was that that funding was available to organizations, not – in the past some time that funding would be specific to a particular organization; I'm thinking of the adult service center, the directions council organizations who play a large part in providing day programming for particular populations. But we wanted to make sure that others had an opportunity,

so for the first time we were entering into funding relationships with organizations who were, you know, at inclusion clubs, or other activities that they are – you know, we're not their sole funder, or they're not traditionally providing services only for our clients but they have a real role to play. And they're often places where people in the community would naturally want to go to get service. So we are trying to, I would say, bring more service providers into the world of DSP, again, to try to build that support system, that network that we know will be the absolutely crucial piece on whether or not people can make the transition to community safely.

Q. And what about – I'm going to ask about that specific program for DSP, specifically with respect to ILS, has there been any expansion of service providers for those – that?

A. We have. We've entered into…

Q. Oh, sorry can we pause? So can you explain what ILS is?

A. Right, so it is Individual Living Support – I think it's actually Independent Living Support, and it was one of the programs that, when I had first come to the Department was involved in, sort

of creating. There had been precursors to that, again, inherited. Some places had them and some places didn't. Sometimes they were called supervised apartments, sometimes they were called a bunch of different things, but the idea behind that is to provide support to people who are able to live quite independently, but who require some support. So the metric is around up to 21 hours a – of support a week. And so, you know, happy to say that that's a program that has been – we've continued to be able to grow that program because it is, you know, among the most community-based you can imagine. And for people who are able, you know, for – that's what they're looking for, and that's what they're able to work within its – it can be incredibly empowering to have your own place, and to make your own rules, and just have the support as you need it. So we have entered into, I don't have the number, but I know we have recruited additional providers to be able to provide that support around the province. And, you know, so that would have been some of the people who already were doing pieces of it, but in some cases it would have been service providers who already had residential facilities, or had other pieces and who are now

venturing into the world of providing this. So a great step down in transition opportunities as well, for those organizations.

Q. And so, moving along then to the seventh recommendation, the title of that one is Increased Access to Competitive Employment. Again, I think you have touched on some things related to this but can you explain what you – what you understand this recommendation to mean?

A. This recommendation stems from a fair bit of conversation we had about the, I guess, the range of employment supports that should be available to people. So I've referenced a couple of times adult service centers, or day programs, and I would say that there were some, not all, there wasn't complete consensus. But there were some voices around the table who felt that those opportunities were as just as segregating as residential. And so, you know, I would say again, there wasn't una – there wasn't a unanimous voice on – on that. Adult service providers and day programs, you know, provide services - they have a – they have a wide range as well. So they provide pre-employment training for people who are looking to get a little bit of support and then go and compete in the job

market, and get a placement, and – and move on all the way to, I would say, inclusion activity. I'm thinking of some of the locations that I've been to where, you know, I'm picturing when I went to the opening of the – the location in Sackville Building Futures where they had people had doing everything from running the café and, you know, doing all of the work around that, to people who required a physical workplace attendant to support them to separate cords into different piles. Like, I'm trying to give – there's a whole range depending on what people – what people's abilities are. But the – the main point is that they're part of something bigger than themselves and they're being able to contribute, and they're – they are, you know, like the rest of us looking for a bit of human contact in all of those pieces. And some of those folks were living with family and some of them are living in small options, and some are living in – in larger facilities. So most of the adult day programs do have that kind of range there are some that are quite focused in a particular area, a particular skill set, but there's a lot of variance. And the great thing about the variance is that our clients are varied, and so they – there are client that

would need that whole spectrum, everything from very assisted participation that is largely not work that could be found in the mainstream employment area, all the way to job preparation and, you know, creating an independent path for themselves.

Q. So I think maybe – that seems like a – it describes, sort of, the landscape in this area of employment related support. So knowing that's kind of what's coming here what's the recommendation with respect to that sort of issue?

A. Well so – right. So the recommendation, I think, is that we wanted to make sure there was more focus, or, I guess, as much focus on the inclusion – as much focus on the actual employment piece as there was in inclusion activities. So, you know, there were stories that people shared of individuals who are going to the same day program for 20 years, and I think that was a judgement that that wasn't necessarily a good thing. Again, there wasn't unanimity on this point. I think we all agreed that there needed to be – we wanted to make sure we were supporting access to competitive employment training and opportunities, but there was also a sense that if we're going to, again, if

we're going to have people directing their own participation, if that's what they wanted to participate in, then we needed to have that range as well. So again, you know, a little – that gives you a little flavor of the conversation. What we've done in that area is we've – we have had a focus on increasing the capacity of – of the programs that we fund to not just increase their numbers, which is always helpful, but we wanted them to particularly increase their capacity to work with clients who had more complex challenges or behaviors on the employment stream so that we worked with clients who not just needed, you know, a little bit of morale support to be able to attach, people who might have more profound challenges and who might need a different kind of support. We also work with Labour and Advanced Education, of course, as they are – as they rolled out their Nova Scotia Works approach that it was important to keep space in all of their work for people with disabilities. And so if there are people in our program, whether they're DSP or otherwise, if they have a - if they believe they are able to attach the labour market and that's something they want to strive for, to make sure that their network of service providers

also had the competency and capacity to focus on people with disabilities.

Q. Okay, so you said broadly you've worked on that goal it was – do you have any specific examples of initiatives that have been taken? I guess, by – you – you mentioned an injunction (inaudible, mumbling) so by DCS, or by other parts of government that kind of service this goal?

A. Yeah the – you know, there's – there's lots of good examples. You know, I don't always get to hear about the good news, but I occasionally get glimmers and, you know, I've – and again, I've had the ability – the opportunity to go to a couple of locations and see some of the incredible work I mentioned the one in Sackville. I've recently – well maybe not that – last year, went to Summer Street in New Glasgow as they were opening their – one of their new social enterprises, and was able to talk to the folks that were working there, and talk about what it meant for them to be able to learn the skills to work in retail, in part, because they wanted to move on to, you know, more exciting places then where they were working in their view because it was with, you know, the same people and they wanted to try some new people. It was, you

know, those things are small – small in the scheme of we have thousands of clients, but for the individuals involved in them were monumental steps forward. So, you know, I'm aware of some work that we've been doing for young people who have the diagnosis or Autism, and working with employers to match them with – to have a matching so that there's – there's particular work that young people who have that diagnosis might actually be absolutely drawn to and have, you know, incredible empathy for. So one I'm thinking of is dog grooming for example, seems like an odd choice, but it actually – we've been actually able to forge some really strong relationships. So part of this is where the work of our employment support and income assistants division overlaps with our DSP division, because we know that some of the barriers that are faced by people who live in low income and barriers that are faced by people, particularly who might be struggling with mental health or with other disabilities are often some of the same barriers. So you know, we have both of those divisions looking to improve employment outcomes for people with disability overall, and the way to do that is to do some specific initiatives based really on the

strengths of the people involved with them.

Q. Okay, and in terms of specifics to this and – and programs I wanted to ask you about, what I have in my notes is a workplace – a workplace attendant program…

A. M-hm.

Q. …how, I think, relates to this?

A. Yeah, so that's a program that's out of the employment support income assistance division, and it – it actually started through the advocacy, the very strong advocacy of young – one young woman, who, in order to work, requires a – you know, a workplace attendant with her for, if not all, I think a significant amount of the time. And so she, you know, she came to the Department, I think, really early on when I was first maybe appointed, somewhere around that time I believe, and talked about what it would mean for her and what it would mean for others in the situation, you know, incredibly well educated, and really quite eager to work and not able to find an employer who would be able to support that level of accommodation or – or she hadn't had the luck in finding them. So we have the workplace attendant program, I think we – actually, I don’t know the number of how many people

we have so – so we'll have to check. At – for – at one point she was the sole participate for a while and then we broadened it a little, and I think we have a few more people involved, but at the same time we also broadened the – or created the program that was sort of the technical aid program. There had been a program that was about providing people with technical aids to support their employment that had been funded by the federal government. They changed some of the rules; we actually went back at it and created a program that allows people who have a particular need, whether it's a computer program, a hearing aid, anything that might actually – to address a disability that – that kind of technical device would assist them in finding employment so we funded that as well.

Q. And I think – so under this heading the goal is related to employment specifically, and your answers have been more into facilitating employment, I guess. I'm going to ask a bigger picture questions; how does that connect back to the broader topic for this hearing is living in community, how – what's the connection between, sort of, these employment related initiatives and the ability to – to move towards – away from

facility exploiting, or towards it?

A. There's a lot of philosophical, maybe, approaches to it, but we know that – we know from research, and we know from our own experience that attachment to employment does bring rewards in terms of people's sense of contribution, what they're able to contribute to the community, their own sense of, you know, their own sense of self-worth, that's – that's – and so for, you know, I have yet – I have yet to – to work, or to attend a meeting with people with disabilities where they haven't raised some of the incredible barriers that they face attaching to the labour market, and a – a strong desire to be able to contribute. And so that's something – that was a flavor that although it, you know, it's not necessarily linked that, you know, work can happen whether – you know, wherever you live I guess, it was such a strong desire that it felt – we felt that it needed a place in this conversation, which really was – was, you know, largely about residence, but we were recognizing that all of the day activities, the inclusion activities, all of those supports, employment was probably one of them. And again, I – I know – I'm thinking of one ARC that I visited early in my time,

I think I may have been aiding the deputy, that had stayed with me incredibly; going to the front door and being met by the – the woman at the front door, took me and showed me around. I realized after she was a resident, but she was being paid to also be the receptionist, because that was her job. And then I went downstairs and we met with a whole bunch of different people, and at one point I meant with the woman who had created the database that tracked staff training, and she was also a resident. And then I met with people who were making some product for their store all of whom were residents; the wide variation. What was interesting to me is the woman who had created the database who, you know, obviously incredibly quite, you know, quite skilled – you know, had lived in that location for most of her adult life, was really adamant that I understood her point of view that she did not want to move. It has stayed with me because at a different time in – you know, in our evolution, she probably would not have started her journey. There may have had – taken a different path, but I heard from her, you know, I heard from her that where she was, you know, she had created, again, that sense of family. I felt leaving – I left there feeling my

obligation was to be able to create the systems and the supports that could allow her to – to see that she can recreate that sense of community that she valued so much. She could have that sense of community outside of those walls, but in order to do that we have to be able to create the systems that will create that sense of community. It was – you know, it's – it's I would say one of the things that's really informed my view on, you know, on how employment is related to quality of life. She absolutely was so proud of the work that she had done, and was not someone who was actively seeking to live in community as she defined it, which was outside the four walls of the place where she lived most of her life. And so the journey to have her feel like she could make the – a different choice, and we would be supportive of that choice, that really in some ways is the, you know, I feel like we'll get there when I feel like I will have – be able to say to that woman. Here's what it could look like, here are some success stories you can see, here's what it look like for you. That to me is the work that we have to do.

Q. Okay. I'm going to move on to the eighth recommendation, which is called People Accessing

Housing, again, there's a description there. Can you explain to us what you understand this recommendation to cover? And – and the follow-up question will be what has been done to - towards implementations?

A. There – there isn't a – I don't think there's as much interpretation for this one as maybe some of the others, in the sense that everyone shared the desire that theirs would be a full range of affordable, accessible housing available. And that we would be looking for some, I guess, a desire to have an understanding that what it looks like – what accessibility – I'm sorry, what accessibility and affordability looks like for people with disabilities is, maybe, different than the standard cookie cutter approach that we might have generally. The recognition that things like visibility were important, the recognition that things like creating space for a living attendant, or for share – a version of shared living was important; so outside of the norm, but really what was required to be truly accessible and affordable for people with disabilities, so, you know, I think that was a – a statement. We didn't spend as much time talking about some of the challenges around

that, but – and I would say that was in part because our shared understanding at the table was that housing is – housing, or the place where people ended up living is – is sometimes a challenge for most of the people that we were talking with, or – or talking about as well. It is the actually supports – the supports that tend to be more of a challenge then finding the actual right physical location, that doesn't mean it's not a challenge as out – as by fact we included it in there, but it's about finding that right mix of the right place that can be adaptable, and adaptable for people with disabilities, and – and one that we – one that we know that people will actually, you know, feel like they're as part of a community and not sort of separated off into something by themselves. So, I think, all of those pieces were really behind that.

Q. Okay. I mean, I guess, I'll ask this; is the focus of this one on, sort of, housing under the DSP program, or on housing in a more, like, the more general provincial housing strategy?

A. Yeah, for me it was more general. It was a general statement that housing is a key part of this, but it wasn't necessarily about housing and part of the DSP program.

Q. Okay, so with that context in mind can you tell us what, if anything, has been done towards implementing this?

A. So we're right in the very beginning stage of negotiating under the new federal housing strategy that's been – so that – some other jurisdictions have completed their negotiations Nova Scotia hasn't started. We weren't top of the list, but we're hopeful we will be soon, and that really has been a changing landscape over the last three years. What we have done is when there have been announcements about affordable units we've included requirements and actually the federal government has stipulated some requirements about including the numbers of units that have to be accessible, so that's great. But within our own conversation on the provincial side, while the – while the federal government is a significant player in housing because they are a large funding for housing in Nova Scotia, at a provincial level – excuse me – at a provincial level we're having conversations about how to best take advantage of that federal funding by creating housing solutions going forward that are a bit more adaptable and maybe can be purpose build for people with

disabilities in mixed use housing units as they're going forward. So we've been starting to have those conversations. I would say in a practical level we've been doing upgrades to some of our public housing units to – on a number of fronts, but to improve some of the accessibility as well. So while we, you know, there are 11,000 public housing units in the province, not very many of them are occupied with people with disabilities. So I think there's some work that we can do there as we start to renew that stock, and that's probably about it.

Q. Okay. Number 9 is titled Comprehensive Community-based Networks of Specialized Supports. I want to make a little bit more interpretation as to what this recommendation has tended to capture.

A. So earlier when I talked about people living in larger facilities having their services delivered to them in the facility, it's really what I'm talking about is our ability to replicate that service array, and ideally improve that service array in community-based settings so that the services…

Q. I want to stop you there, and just when you say having their services delivered to them in the facility, what kind of services, like,

illustrate what that is?

A. Okay, so if you're in a larger facility you will have a nursing staff, so they'll be a nurse that will be available, you may, or may not, have a recreational therapist depending – there's different variations, the nutritionist. There's definitely recreation coordinators, there are people who are doing foot care there, they're doing other activities that people with a wide range of disabilities or challenges might need access to. And they're being – they're largely coming to the facility, they're employed by this facility, or they're delivering services in the facility so, you know, a wide range of supports. You know, the doctors are – we have doctors that are going there, there's some that have their doctors in the community, but there are some that are going there. If there's someone that needs any kind of particular support, that's where they're receiving it. And so there's a – again, that's an artificial situation. Most of us don’t live in a place where we have all the services we need in one building, or most of the services we need. So to replicate so that we can have people have access to a recreation coordinator and recreation therapist, and nurse,

and foot care and all of those things while they're living in a small options home, or in an independent living situation any of those, that is when I, you know, keep using the same hand gestures to talk about delivering this network and this – this structure of supports. That's what we're talking about and that really is what this is about, is that we have to design our system so that our services are coming to where the people are, or that they're delivered in a community way as opposed to relying on the fact that people are living in a congregate setting. And so there have been some incursions into that. A number of the larger facilities have already been building their ability to have outreach teams. Excuse me - and so those outreach teams do exactly what we would want them to do which is they take the services that are being provided there, but they are able to, you know, go out to wherever people are living. And I think we've had some success, some not so successful in part because it's not always easy to attract the clinical resources that are willing to operate in that way. But we definitely have had some success, for sure, in having teams able to gather and coordinate how you support 50 people who

are living in a diverse geography, as opposed to 50 people that are living in the same building. So that – you know, my understanding that's exactly – that's what we meant by that recommendations, and that it wasn't just about community services delivering our support or the supports that we might fund, which might be recreational and others. It was about working with our colleagues at the Department of Health in particular, and the health authority, to talk about what the provision of their services could be in that – in that dispersed model.

Q. Okay, and the final recommendation is called Coordinated and Integrated Disability Specific and Mainstream Community Services. So the same questions set out there in writing, but can you explain to us what you understand this recommendation to – to mean?

A. Yeah, it's – it's a little bit of a catch all, not necessarily – not necessarily, you know, everything in the kitchen sink, but it was – it's this idea that, in order to go forward, we have to build the mechanism, the supports, the structures, some of the behind the scenes things that I've already described. We need to actually have a

structure that allows us to work; government, community and, most importantly, client in concert. And we don't necessarily, I mean, I'll repeat myself, we did not have a designed system we are starting to design a system now. But it wasn't one – the system that we had to work with was – wasn't necessarily one that we want to build on; we want to actually re-engineer. And so this was about, in my view, creating those – creating the capacity for us to actually have a robust – have a – yeah, have a robust system that can respond to changing client needs. So things like, I mentioned earlier, our ability to predict future clients and model what our client needs might look like in the future, five years in the future, 10 years in the future, 20 years in the future, is helpful. Mechanisms that allow us to have constant and improved communication with clients and their families so that we are not continually feeling like we have to keep, you know, reinventing how we get information out there. We certainly haven't struck that correct yet, and it's a work in progress, but part of that is we need to build the robust system so that we actually know who's there, and how – what's the best way to share information. So, for me, it's –

in some ways it's – this is an acknowledgment that we – we need to build a better system that will support all of the things that we want to do.

Q. Okay, and I wanted to comment on – specifically on that phrase, "Coordinated and Integrated Government Disability Specific in Mainstream Systems." I have a – kind of a specific question then – I thought maybe fits under here – maybe it – we'll fit it un – fit under another rule, but it's particular to the relationship between the Department of Community Services and the Department of Health and Wellness here…

A. M-hm.

Q. …I've alluded to it, but I didn't do some follow-up on that. So I think we've heard some evidence today about, sort of, how – what's the responsibility of the Department of Health and Wellness versus the responsibility of – of DCS, and I have some specific questions about that, but first can we just set the stage by, like, what is the – in the – the area of living arrangements – residents for folks who are – need medical care, or have disabilities…

A. Yeah.

Q. …or somewhere in that – in that mix,

like, what's the division of responsibility?

A. Yeah, there – there is a division, it's not a clear division and, you know, on the positive side for that is people aren't clearly divided so, you know, that makes sense. The negative of that is that I think that historically we haven't always been moving in the same direction, or we haven't seen ourselves as part of one service continuum that we might overlap in, but we, you know, we were separate. And so I think – I think that it's fair to characterize, you know, time since I've been in the system looking – looking on that we haven't always acted as one system. Now I would say that there is a concerted effort, and it probably started really before the time of the road map, just slightly before, when we started really looking at the continuing care system and looking at the disability support system, the SPD system at the time; and saying both of these systems seem to be operating close to the capacity. And we know that there are unmet needs so is there a way that we can actually understand how they work together. So I can't remember the exact timing, but at some point, I think I was LAE when it happened, but at some point the two departments agreed to have some

staff people, you know, almost share with one another where things were and where the programs needed to go, and some of the pressure points and so on, and what were the things that we know that we needed to – we wanted to work on together. That work started; it kind of morphed into some of the continuing care work that we did jointly. There was a bit of a road show where people travelled around the province and talked to Nova Scotians about what they wanted. And then the road map kind of came along at, sort of, at the middle to tail end of that, because we were all having the same conversation, which is what is the – how do we better provide services to Nova Scotians? Again, not caring whether they came in through the health door, or came in through the community services door, we're not necessarily caring whether their primary diagnosis was as a result of a developmental disorder, or if it was exacerbated by, you know, and episodic illness. Like, in some – in some ways we were all reaching the same conclusion it – it shouldn't matter to the person that they have to figure out which way is the best way to go. Back to the point that I said earlier, we were relying heavily on staff who had their own

relationships with people in health, and in the authorities at the time, and with the IWK and this. We were relying heavily on them to make it work but the system wasn't necessarily set up so that they could make it work without, you know, people spending a lot of time trying to problem solve. So, you know, there has been a significant piece of work over the last couple of years and obviously there are things going on at the Department of Health as well. And we have been working together to, I guess, at a couple of levels the – the system wide level to design how the two systems work together, but also at the client level, because we know that there are client issues that are – that flare up, that are exacerbated, that neither Department has an easy answer, or resource that we could easily bring to bear. But the commitment is that we will bring all of resources to bear and we will actually problem solve together to the point that I can, in recent memory, think of a couple of cases where people are having 8:00 o'clock phone calls every morning to try to work through a particular challenge, and we're all at it. So the – I would say the sense that it's, you know, where in the past there might have been "Oh, that's a

health issue," or "that's a Community Services issue." I'm not hearing that as much. And it's part of the big culture change that we've been trying to effect over the past few years. But the dynamic between all of our complex systems when you factor in – you start to factor in education, and justice, and other systems on it, incredibly complex, our goal is to have clients not have to be the ones to figure out how to maneuver through that. It's the – we've created a system that they can actually find their way through.

Q. Okay, and to – to drill down even to the, I guess, more specific iteration of that issue, we've heard evidence about it, at least one case where at one point in time someone was – it was – receiving services from DSP so that it was deemed unclassifiable for her residential options under DSP, recommendation that they want to - in options of her health. Health said they're ineligible for our options, and the person released at that point in time was kind of stuck in the middle with neither of those doors available to them. And they were in the hospital at the time and that's where it continued. So – I'd like – is that a problem that – I'm not going to ask you about whether you're

familiar with that specific case, but that – problems of that nature, are you familiar with that being an issue?

A. Problems of that nature are one of the reasons precisely why we've spent the past three and a half, four years, trying to build a new system and working on it. Because, you know, when I say now that there's no appetite for – for a department, or for an agency to say it's not my issue, that's in part, because it has to be somebody's issue. And – yeah, I mean, you use the word "unclassifiable," that is not a word that we would use now. And it would not – it would not be something that we would want. People aren't – people aren't classifiable, people aren't unclassifiable, but I know that that word has described situations where, if people were in a moment of change, or there were behaviors, or other things that going on and they couldn't easily fit within the system and so that word was used. Our entire approach now is about change – the whole, yeah, the whole reason for all of this is to change the approach that we start with where the client is and if the client needs support from – whether it's from Community Services, or from Health, our job is to start – to find a way to design and wrap services

around that client. So the idea that there would be a situation where they'd be unclassifiable, you know, is no longer valid in our system. And – and I have to say that – I would say I don't want to make that sound like that's been the last couple of years, you know, while I've been at the helm, I would say when I first joined the Department of Community Services back as a Policy Advisor, again, some of the instruction from the more wise staff who had been longer than me was they were describing this as a challenge that they were grappling with in the system. It was not something that they felt was getting the – you know, that they saw it as a – as a challenge that they had to grapple with, and they really wanted a way forward to be able to have that more client centered point of view.

Q. Okay, so you talk about, I guess, it's a problem that you recognize…

A. Yes.

Q. …and overall said that there's – there's been some work done in the last – in the last while. Has – has there been work specifically to resolve that – that problem, that issue of somebody not – not having the – not having supports under DCS, or under Department of Health, like, the – the door

being shut to both paths and you – you nodded in response to my question, but for the – for the recording we'll need you to say out loud your…

A. Yes. Yes.

Q. Okay, and then – with more specific you said work has been done, but more specifically, like, the how – how – what's been done to ensure that that is not a continuing problem today?

A. Well, I mentioned some of the pieces that of the process that we've set up, which requires both us and the Health Authority of health to be at the table around specific cases. And those processes aren't at hawk, they're not, you know, just if we feel like it, you know, in some cases there's a very formal protocol that people will follow. I – and, I guess, I'm trying to – to show the high level of sensitivity we have to this, we have, you know, basically a protocol that if any staff are struggling with this kind of – you know, we're – we're not able to get the resources – they're not able to get the resources that they need, or they're feeling like we're not, you know, we have two systems that aren't necessarily aligning. It is – it's escalated almost immediately to the most senior people of Department, either

myself, or the Associate Deputy Minister or the Executive Director. We're on the phone with the Vice President, or the President, or the Deputy. There's zero tolerance at this point for us to not be bringing all resources to the table to bring to bear to deal with individual client issues. That doesn't mean we can always solve all problems, you know, sometimes there are challenges that are significant and deep. And we – some of the things that we can do are not necessarily all that an individual or their family would want. That happens all the time, but there isn't the sense that there's a gap created because each system is retreating to its corner that – we are trying very hard for that not to happen, and the way that we're doing that is by basically putting the – the responsibility for that on the most senior people in – in all of those entities. In order to formalize that, and make it not so that it's everyone on the phone every morning at 8:00, we actually have some joint committees between us and the Department of Health that we're actually crafting the protocols on how we will work together. We've had - we actually brought in people from around the country we called it a Coalition of the Willing, of – of provinces around the country

who were grappling with some of these challenges and they came to Halifax. We had a conversation about how do we actually – how do we work over what were traditional boundaries between us and the Departments of Health, how are you doing at your jurisdictions, what kind of mechanisms can we put in place, and our health colleagues were at the table with us for the whole point the whole time. So some of the things – the ways - our ways of working, our ways of making referrals, our ways of sharing information were based on some of the things that we heard there. And to go back to the conversation about assessments, that's one of the other pieces, is that if we can have assessment tools even if we are assessing or different things, if our assessment tools have a portability that they can be understood in one another's world, that too will help, because then we're not actually arguing about diagnosis, or what's the right approach. We're actually trying to then say, "Okay, so what services can any of us bring to bear?"

Q. Okay. Before moving on from the recommendations I wanted to go backwards for just a moment. When you were discussing recommendation 9, I…

A. Yes.

Q. …it's just about the answer that you gave for that question. I think, I didn't ask my two part questions about describing the recommendation and – and what progress has been made. I think that you just sort of on you own went from describing the recommendation and the progress, so…

A. Yes.

Q. …I – do you – is there anything to add in terms of the progress on that one? I do think that you've covered it but I wanted to make sure I didn't inadvertently prevent you from answering that question.

A. No, that's fine.

Q. Okay. So – so we've walked through what those recommendations are, and some of the work that's been done. I want to go back to a questions that I asked earlier before we started in these specific recommendations, which was about, sort of, costing what this – the full implementation of what this program looks like. You said that that wasn't done; that the kind of, the point of the road map being developed to here we are X years later, has that been done today? Like, is there a costing of what it – what eventually implementing all of this

would look like?

A. No.

Q. Okay.

A. No, because it – it can't be until we've actually engaged with clients, and developed what the solutions are that work for them. It – we can't have a cookie cutter – a cookie cutter approach is kind of what got people here. We can't have a cookie cutter approach and make the assumption that all of the – that these five community-based options will work for a hundred per cent of the clients that – we just know that is not the case. And our efforts to date to move people from large facilities into community have shown us that people are – there are some people who are making the leap from living in an RRC level of care, the highest level of structure, to living in an apartment with a roommate. There are others who are not able to make that leap, they're leaping to a developmental residence. So we – we – you know, we can't – even though we've done that even extrapolating from that population alone would be misleading, because the – the wide variety of experiences and needs that people have will take us down a different path. I do believe though that the work that we have already

talked about with Quest and with Breton will start to bring us to – a little bit more clarity as we have – we've had conversations with more clients, and done more planning with them and their families than with service providers; so that will get us closer. Some of the things that, you know, obviously we still have to work on some things we mentioned about building the community networks and so on, we will be starting to cost what some of those like, again informed by the real experiences of our clients.

Q. Okay. I have just a – a few final questions but before getting to those final questions, something I maybe should have asked when I was asking questions about the scope of your current role. What is your level of knowledge of, sort of, the particular features of any given case of a – of a participant in DSP? Just help us – help us understand whether you're in a position to answer specific questions about any particular individual, or – yeah.

A. Very little. You know, I will hear about cases when things have escalated either there's a, you know, there's a particular advocacy on an issues, or if there's, you know, something has

happened; any number of ways that a case will get to my attention. But as I've said before I do not have the expertise that our frontline staff have I am not the one to be making case decisions. I can hold the vision of where we're going. I can make resource allocation decisions or certainly influence them heavily, but when it comes down to individual cases they are best handled by the frontline staff. You know, that being said occasionally they – there are some that come to my desk, but even then it is at a very high level, and it should be. I don't need to know the details of people's lives, it's – they should – I only need to know what I need – I only need to know what I should know in order to make informed decisions.

Q. And more specifically, I guess, there are three named individuals who are involved in this complaint, I know that you know – know them because…

A. I know their names.

Q. …you know the – you know about the human rights complaint that – kept up-to-date on that, but apart from, sort of, the discussions related to this litigation do you have any familiarity with their – their particular clients, or their histories?

A. No, not at all.

Q. Okay. Finally, I guess, you know you've talked about the commitments government has made; you've talked about some of the work that's been done some of the, sort of, behind the scenes, and how that relates to the long-term goal. I'm going to put to you that – that to some people that might come across as we've heard this all before; government has made this commitment before, we don't think that we're seeing any real progress to this commitment and, you know, frankly, believe that – that – that the Department is actually moving ahead toward the – towards the long-term goal. So just – I'm going to put to you that some people may have that response to what you've described here. What can you say to help us understand whether this commitment is – is real or whether this is just something that we've heard all before?

A. A couple of things, I guess. The first is that I – I continue to be really struck by the incredible advocacy of individuals and their families. And so I think people have a right to be skeptical I think that's – it's a reasonable thing to be skeptical for certain; I would disagree that we've – people have heard it all before we're

actually saying and doing things that we've never done before, so I don't agree. To the best of my knowledge before the road map was adopted, there has never been a statement that we're going to reduce reliance on larger facilities let alone close them. So I'm not aware that that commitment had been made it may – if it had been it was individuals that certainly didn't seem to be the positon of government. Some of it – the statements that we've made about, you know, those three goals that sometimes get lost as people talk about the 10 different activities; those three goals to say that we are going to have support, self-direction and choice. I don't think we've ever quite said that firmly before but I certainly have heard from families what you're saying. I've heard from families directly to my face that they don't believe that we're going to do what we've said we're going to do, and I, again, I have no – they have every right to be skeptical. What I can say though is that we are doing what we said we're going to do. We will fully take the criticism, I will take the criticism that maybe we're not going as fast as people would like, we're not doing everything correctly that's for sure, we're not getting it all

right, we're not always reading every opportunity, but what I will say is that the commitments that are made to move forward we are committed we are – we're moving forward. And we are also changing things that haven't been changed. So some of the behind the scenes stuff I know it doesn't seem like that is actually transformational but it is inside the Department. And the fact that we've been able to, you know, despite all kinds of – of pressure and – and things that we, you know, people want us to do the fact that we've been able to decrease the number of people in those larger facilities year by year by year for the past few years is a mark of success for us. We were going in the opposite direction we have turned the tide on that. The fact that we've been able to grow the number of community-based options we're moving in the right direction. Every time we are able to create a new Flex Independent, create a new small option, we are moving in the right direction. So again, I will absolutely – you know there's lots of room for people to be critical of – of how fast, but I would really hope that people would acknowledge that the things that we're moving on – the things that we're able to accomplish we are moving exactly in the

direction that we should be.

Q. Mr. Chair, this might be a – an opportunity for a short break. I – I believe I'm done, but I – If – I'd like to chat with my client…

THE CHAIR: Sure.

MR. KINDRED: …if they have a few clarifications.

THE CHAIR: Okay. We'll take our break.

RECESSED 2:58 P.M. TO 3:10 P.M.

MR. KINDRED: Let's get started. Still waiting for…

MR. DOUGLAS: We're waiting for…

MR. KINDRED: Are we waiting for Ms…

MS. MCNEIL: But I think she'll just be a moment.

MR. CALDERHEAD: I noticed the bathroom was closed – the women's washroom is closed.

MS. MCNEIL: She may have went to the washroom downstairs.

MR. KINDRED: Fair enough.

BY MR. KINDRED:

Q. All right. So if we're – if we're ready to go I can confirm I have no…

THE CHAIR: Yes, please.

MR. KINDRED: I have no further questions for this witness at this time.

END OF EXAMINATION BY MR. KINDRED AT 3:12 P.M.

THE CHAIR: Okay.

MS. MCNEIL: I'm wondering whether we might have a short break just to confirm; one of the things that – that I did want to – we weren't sure exactly how long the questioning was going to go this afternoon, but I just wanted to – we want to address is whether we might just give further adjournment to – early tomorrow morning. We could start early, the advantage of that being that it would allow us time to get instructions from our client concerning the evidence we've just heard, as well as just to be a bit more efficient tomorrow with the cross-examinations.

MR. CALDERHEAD: Yeah. I guess, for my own part there's a lot that – there's a lot we've heard, and a lot that we all need to process. And like Ms. McNeil, I just think that with a bit more time we can be far more focused rather than – based on the new stuff we've heard, and I too need instructions,

and we'd be willing to start an hour earlier tomorrow.

THE CHAIR: Okay. Ms. Hartwell, could you start at 8:30 tomorrow?

MS. HARTWELL: I can.

MR. KINDRED: If – I mean, if the goal is to facilitate more efficient use of hearing time, and we're making up the other hour being here tomorrow then I'm going for that goal.

THE CHAIR: Yeah. Okay, I might say I will do my best to be here at 8:30, and maybe we might say quarter to nine. I've got a car to get the headlight replaced on before I go on a road trip Monday morning, and Monday morning – Saturday morning, but I want to attend to attend to that, and I'll be here as soon as I can be after that. They've told me it will only take 15 minutes, or so, down in South end Halifax. So I'll be here as quickly as I can be after it so let's say quarter to nine.

MR. DOUGLAS: Okay. Want to say 9:00 to be safe, or quester to 9 is sufficient?

THE CHAIR: Quarter to nine.

MR. DOUGLAS: Okay. That's fine. I'll let Ms. Franklin know.

THE CHAIR: Okay.

MR. DOUGLAS: Thank you.

THE CHAIR: Thanks, Ms. Hartwell, and – I know you remain in the bubble as far as they're concerned.

MS. HARTWELL: Yes.

[ADJOURNED FOR THE DAY AT 3:15 P.M.]

CERTIFICATE OF COURT TRANSCRIBER

I hereby certify that I have transcribed the foregoing and that it is a true and accurate transcript of the evidence of Lynn Hartwell in a Nova Scotia Human Rights Board of Inquiry Hearing of **MACLEAN V. PNS ET AL.** taken by way of electronic recording in Halifax, Nova Scotia on August 9, 2018.

Rita Newton, Certificate No. 2006-56
CERTIFIED COURT TRANSCRIBER,
PROVINCE OF NOVA SCOTIA

Halifax, Nova Scotia
September 24, 2018

NSHRC INQUIRY H14-0418

BOARD OF INQUIRY

THE NOVA SCOTIA HUMAN RIGHTS COMMISSION

BETWEEN:

BETH MACLEAN, JOEY DELANEY, SHEILA LIVINGSTONE

COMPLAINANTS

- And -

DISABILITY RIGHTS COALITION

- And -

PROVINCE OF NOVA SCOTIA

RESPONDENT

- And -

NOVA SCOTIA HUMAN RIGHTS COMMISSION

COUNSEL: Vincent Calderhead, Katrin MacPhee, Pink Larkin, for Beth MacLean, Joey Delaney, Sheila Livingstone, the Complainants

Claire McNeil, Donna Franey, Dalhousie Legal Aid, for the Disability Rights Coalition

Kevin Kindred, Dorianne Mullin, Department of Justice, for the Province of Nova Scotia, the Respondent

Kendrick Douglas, Kimberly Franklin, Human Rights Commission, for the Commission

J. Walter Thompson, Q.C., Quackenbush Thompson, Board Chair

TRANSCRIPT

This is the evidence in a Nova Scotia Human Rights Board of Inquiry matter of Beth MacLean, Joey Delaney, Sheila Livingstone v. Disability Rights Coalition v. Province of Nova Scotia v. Nova Scotia Human Rights Commission, held in Halifax, in the Province of Nova Scotia on August 10, 2018.

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MACLEAN ET AL. V. PNS ET AL.

AUGUST 10, 2018, DAY 34

EXHIBITS

MACLEAN ET AL. V. PNS ET AL.

AUGUST 10, 2018, DAY 34

IT IS AGREED that this Hearing is held by **consent** with the intention that it have the same force and effect as if all formalities had been complied with;

-and-

IT IS AGREED that the Transcript may be used at trial or subsequent proceedings in accordance with the Rules pertaining to Discovery Examination and Rules of Evidence without the necessity of calling the Reporter in formal proof of the Examination.

AUGUST 10, 2018, AT 9:06 A.M.

LYNN HARTWELL, STILL UNDER OATH, TESTIFIED:

EXAMINATION BY VINCENT CALDERHEAD

THE CHAIR: Okay.

MR. CALDERHEAD: All right.

THE CHAIR: Ready to go, Mr. Calderhead? Are you going to…

MR. CALDERHEAD: Yeah.

THE CHAIR: …go first? Okay.

BY MR. CALDERHEAD:

Q. Thank you. Good morning, Ms. Hartwell.

A. Good morning.

Q. I was trying to remember whether we had met but in any event I'm Vince Calderhead and I'm counsel for the Individual Complainants in this matter. I wanted begin by kind of picking up where we left off yesterday. Mr. Kindred essentially asked you a question that basically raised the question of why should the Province be believed this time because many commitments have been made in the past and so on and - and you were asked about that. Do you recall that?

A. I do.

Q. Okay. And - and in a nutshell do I

understand it right that you said, this time we've made commitments that we - the Province has never really made before. Is that - is that a fair assessment of what you said?

A. Yes. In part.

Q. Okay. What was the other part?

A. Well we're also acting on the commitments.

Q. Okay, but - but the - the - in terms of the - the commitment itself, and it's separate from the action that we've made this commitment we never made before, so I wanted to take that up a little bit and ask you some questions about that. You said that people would - you could see why they might be skeptical and - and wonder about that and so without spending too much time on it I wanted to ask you, in light of what you said yesterday, whether commitments that have been made in the past and that are on the record are - are basically the same as - as what - what was in the Road Map.

So the first one I wanted to ask you about, and - and I'll only ask about two or three, was one from 1984 and it's in Volume 8. Ms. MacPhee maybe will…

MS. MACPHEE: 111?

MR. CALDERHEAD: Yeah.

THE CHAIR: Sorry. Did you say 1994?

MR. CALDERHEAD: 1984.

THE CHAIR: 84.

MR. KINDRED: Which - which volume? Volume 8?

MR. CALDERHEAD: It - I've got as 111. Tab 111.

MS. MACPHEE: It's Volume 4.

MR. CALDERHEAD: So it looks like Volume…

MS. MULLIN: Oh. And…

MR. CALDERHEAD: Volume 4.

MS. MULLIN: Yeah. It was…

MR. CALDERHEAD: Tab 111.

MS. HARTWELL: Okay. (talking in background)

BY MR. CALDERHEAD:

Q. And in the joint book it begins at Page 6,464 and these are the small font numbers.

A. M-hm.

Q. It's entitled,

"Report of the Task Group on Homes for Special Care to the Minister of Social Services."

And at the bottom of the page we see the

Minister's name, Edmund Morris, so he was the Minister at that point. Do you recall that?

A. No. And 1984 was before my time.

Q. Okay, but quite apart from your role were you aware that Mr. Morris had been the Minister…

A. Yes.

Q. …of Community - okay. That's what I was asking. What about this report? Are you - have you ever seen it?

A. I don't recall it but we…

Q. Okay.

A. …did have an overview as part of - the Road Map process we had an overview of some of the reports that had been presented in the past. This may have been one of them…

Q. Okay.

A. …that information was drawn from but I don't recall this specifically.

Q. Okay. (whispering in background) The - bear with me. I'm just getting the - the - pinpoint reference. Okay. If I could ask you to turn to, I think it's Page 56 of the report, Page 6,547 of the joint book.

A. Sure.

Q. Do you have it there?

A. Page 56?

Q. There's - you'll see a heading,

"Services to Mentally Handicapped Adults."

A. Yes.

Q. Okay. About the third line down there's the passage,

"Normalization."

And are you familiar with that idea? Historically it was the idea of bringing people - the evidence shows it was the idea of ensuring that people with disabilities were allowed to enjoy a normal life and - and integrated within society?

A. I - I'm not familiar with use of that word but certainly of the concept of course.

Q. Okay. The concept as you understand it what?

A. One of integration.

Q. Okay. And - and kind of mainstreaming and inclusion?

A. Yes. That's right.

Q. Okay - okay. So it says - and here is the quote, and I'll ask you about it,

"Normalization has the following emphasis; The integration of the mentally handicapped into a variety of community living settings. The provision of a broader way of community-based support services. A gradual policy of deinstitutionalization of mentally handicapped persons from large, often remote, institutional facilities and a rehabilitative rather than custodial orientation within institutions to ensure that persons are moved as quickly as possible to community alternatives."

And my question then is would you agree that that statement is basically the philosophical reflection of what we see in the Road Map?

A. Yes. It lines up.

Q. Okay. The second, and I'll – I'll only

take you to one other after this, is in Volume 6A of the joint book. (whispering in background) 6A, Volume 1, Tab 1. (whispering in background) And it's found at Page 1,647 of the – of the joint book. It's a report entitled,

> "The Mentally Disabled Population of the Halifax County Region Needs and Directions to Plan for the Future."

This is the report of the Officials Committee and there's been evidence about the – what the Officials Committee was and who was on it and so on. It's dated August 1989 and the evidence is that – well the - I can ask you to turn to what's Page 1 of the report. Page 1,649 of the joint book. The – essentially the – the Minister of Community Services again, Mr. Morris, had asked local officials, at that point it was the Municipalities, and had asked local officials to do a report about the needs of people with disabilities. So I'd ask you to turn to Page 14 of the – of the report and it's Page 1,662 of the joint book. (whispering in background) All right. On – on Page 14 it's the

bottom of the first full paragraph and do – do you see it there? There's a sentence that begins,

"This latter document."

And – and looking two or three lines up there's – there's reference to another report and it says,

"The – this emphasis on the community."

Quote, unquote,

"Is the locus of can rehabilitations also supported by…"

And then there are a couple of other reports referred to but the – the question – the passage I'd like to ask you about is the one – the last one in that paragraph. It says,

"This latter document reinforced the need to assist persons with mental disabilities to live at their maximum potential within the

community, in human dignity, and maximum independence."

Again that's another expression of it – of – of this, I think you used the term philosophy of inclusion, a few minutes ago. You'll agree with me that's the same?

A. Yes.

Q. Okay. And on Page 33 of that report, it's Page 1,681 of the – of the joint book, on the – on the top of the page there's a heading,

"Number 9. Strategies for the new system."

Do you see that?

A. Yes.

Q. All right. The – and this is the service settings. It says,

"The – currently there are three major types of settings each with their own historical/philosophical base."

So I'm just asking, and this is less about the – the physical – philosophical or policy reflection as much as a kind of an observation. It says,

"The institutional services."

And then in brackets they're referred to ARC's and RRC's and to some extent RCF's. Over their – over their origins to the asylum approach to care for the mentally disabled. Is that your understanding as well?

A. Of?

Q. In terms of their background and their origins. How they drew out of…

A. I – I don't know. I'd have – I don't…

Q. All right.

A. …doubt this assertion. It makes sense but I – I don't…

Q. Okay.

A. …know that to be true.

Q. You're probably aware that historically Nova Scotia – the – I don't know if that is the…

A. No. It's okay for now.

Q. Oh. Historically Nova Scotia - there's been evidence that care for people with

disabilities was often – took place in kind of county homes, or remote hospital – county hospitals, that kind of thing. Are you familiar with that?

A. Yes.

Q. Okay. And – and historically they were poor houses and so on.

A. Mmm.

Q. All right. You'll - sorry. I – I see you nodding. You'll need to say yes.

A. Yes.

Q. Yeah. Okay. The – so then flipping ahead to Page 35 the – on Page 35 you see recommendations under heading Number 11?

A. Yes.

Q. In the first – under the heading preamble there's a recommendation that begins with,

> "Generally speaking there's a substantial number of mentally disabled persons in the Metro area who are not in appropriate levels of care."

And then it refers to a study,

"There are mentally disabled persons both inside the Homes for Special Care system as well as outside who require or are prevented from different kinds of care than they are currently receiving."

And that's true of the current system as well, isn't it? Do you want to take a moment and read that under the heading preamble? The first…

A. M-hm. Yes.

Q. That's true of the – of the present system?

A. Yes.

Q. Okay. In the next paragraph, or sentence I suppose, if you want to take a moment – and they're talking about the existing system leads to a facility program driven system as opposed to a client/needs driven system. I think that's consistent with your evidence about the – the drawbacks of the current system, isn't it?

A. Yes. The only clarification I'd make is that we've been actively working to increase community capacity.

Q. Okay.

A. In comparison where it says,

"There are limitations on non-residential support systems."

We've been moving to try to improve and decrease the limitation on non-residential support systems.

Q. Okay. And then they get into recommendations in a numbered list on the bottom half of the page. In Number 5 the recommendation is five is,

"Initially the movement of people would be towards less – lesser levels of care in appropriately staffed facilities. Eventually more of the clients would be involved in community support programs within community living situations."

So that's, in a sense, similar to one of the statements in the Road Map, isn't it?

A. Yes.

Q. The – the last document I'd like to take you to is in six – Volume 6A, Tab 3, which I think is the one you have. Do you have it there?

A. I do. Yes.

Q. This is a document from February 1995 so over 23 years ago. Now are you – have you come across this in the past? Do you know it?

A. I – same comment as the earlier document. I don't recall seeing this one specifically but I have been provided with…

Q. All right.

A. …summary documents. They're – or summaries of what's happened in the past.

Q. Okay. The…

A. So it may have been included.

Q. The – I don't know if this is helpful but some of the documents before the Board show that in – as part of the Road Map process, background documents…

A. M-hm.

Q. …were provided, and there's reference to this one as well.

A. Yeah.

Q. So perhaps that's why it – it might ring a bell for you.

A. Mmm.

Q. Okay. So can I ask you just to look on Page 2? (whispering in background)

MS. MULLIN: Sorry. Which page was that?

BY MR. CALDERHEAD:

Q. Page 2. It's Page 1,714 of the joint book. Do you have it there? Page 2 of the report.

A. Yes.

Q. Okay. And it's under the heading prolong and – and in the second paragraph there's a reference to how other jurisdictions had essentially deinstitutionalized people but left them without community-based supports and services and then in the second sentence it says,

> "To ensure this does not happen the Department of Community Services is proposing a policy which will be used as the basis for a formalized service system for Nova Scotians who are mentally challenged and who require long-term supports. The following represents the syntheses of that policy."

And then there's an indented quote. Do you see it there?

A. Yes. I do.

Q. Okay. Essentially it says deinstitutionalization requires the development of community-based services for those persons who are moving from institutions and for those who have similar needs but who have remained in the community. These services must be comprehensive enough to provide an acceptable quality of life and allow full community inclusion. You'll agree with me that that too is precisely what the Road Map refers to?

A. Absolutely. Yes.

Q. And kind of toward the bottom of that same page you'll see the second last paragraph. It says,

> "The brief discussion paper attempts to outline the policy directions the Department of Community Services feels should be pursued in order to effectively and responsibly replace adult – effectively and responsibly replace

adult institutional services with community and living arrangements for people – or persons with mental handicaps and mental disabilities."

And then it goes on. That too is a reflection of what the Road Map is talking about needing to do. Correct?

A. Yes.

Q. And then lastly on Page 6 of the report, it's Page 1,718 of the joint book.

A. Sorry. Could you – can I have the page again?

Q. Page – it's called Page 6. It is Page 6 but the – may not be a number there at the bottom. If you see Page 7 it's the day – page before.

A. Okay. So Page 1,718?

Q. Correct.

A. Okay. Yes. I have it.

Q. Okay. And this is under – is a heading under – there's a heading that's kind of shaded but it's entitled policy issues.

A. Yes.

Q. And again it begins with Human Rights and – and how people in – with disabilities are entitled

to participated fully in their communities. That too is a statement that essentially we find in the Road Map although I'm not sure it refers to the *Human Rights Act* but the Road Map incorporates International Human Rights. We've talked about that. Correct?

A. Yes.

Q. Okay. Particularly the Convention on the Rights of Persons with Disabilities?

A. Yes.

Q. And in the second paragraph it – there – it's an elaboration which says,

"The Department believes that people with disabilities have the same rights and the same responsibilities as other Canadians."

We find that general – we find that pervasively through documents around the Road Map, don't we? About – entitled to full inclusion and participate equally?

A. Yes.

Q. And both in the Road Map and subsequently

they're repeated references to right to equality to live in the community?

A. Yes.

Q. Okay. Under community acceptance, it's listed as Number 2 there, the second paragraph, although it's a sentence it reads,

> "The Department believes that only – not only do all Nova Scotians have the right to live in a community it believes the community is the natural setting for individual growth and fulfillment."

So this isn't as much a policy commitment or statement about Human Rights. It's essentially saying this is naturally where people with disabilities should live and – and – or is their natural setting. That too is reflected in the Road Map, isn't it?

A. Yes.

Q. Okay. And then it's followed with,

> "The Department accepts its responsibility to work with

organizations in promoting real community acceptance of persons with mental handicaps or mental disabilities."

In other words Government taking a leadership role. Correct?

A. Yes. That's what it says.

Q. Okay. And – and – but my question is whether the Government – whether the – the Department today also accepts its role to – to adopt a leadership position in terms of promoting acceptance…

A. Yes.

Q. …for the inclusion of persons with disabilities?

A. Yes.

Q. Okay. The – so these – these are statements from the '84, '89, '95 policy commitment – policy statements, observations, and – and commitments. Many of which are – we find reflected in the Road Map. Correct?

A. I would disagree a little bit over some of the wording. They are policy statements…

Q. Yes.

A. …in the sense they're listed under policy issues in a recommendation paper around, I guess, discussion documents. Some of the other things you referred me to were recommendations.

Q. Okay.

A. So for those of us who work in the system the difference between a discussion and a recommendation is different than a policy decision I guess.

Q. Okay, but there are very important commitments by the Department, particularly in that 1995 paper, and we can go back to it if you want.

A. Sure. I'm just checking…

Q. Yeah.

A. Yes. Okay.

Q. So you're – those are – those are commitments. They're not observations or aspirations, correct?

A. The line,

"Specifically the Department accepts its responsibility."

Yes. I would agree that that is a statement of responsibility or a statement of acceptance.

Q. All right. Let's – let's move on. You were asked yesterday some questions about the – the Road Map. The – for sure about the Road Map but about the moratorium as well?

A. Yes.

Q. And – and you spoke about that and your basis for knowledge and – and so on. The moratorium and – and what in meant in fact is – is - in some sense is central to this complaint and – and the – the fall out for the moratorium so I have – I have a series of questions I wanted to ask you about the moratorium. So we're leaving the old reports and we're now coming onto the moratorium. As I understood your evidence yesterday you had said that when you came on the Department was it 2004 initially?

A. Yes.

Q. All right. The – you said you heard a lot of talk about the moratorium but you actually didn't see anything write – in writing or policy statements or memos or anything. Is that essentially it?

A. Yes.

Q. But there was a lot of talk about it by stake holders whether they'd be advocacy groups or

parents or even staff talked about it?

A. Yes.

Q. And – and at one point I think you said they had achieved like a mythical status I think was the term you used. Is that right?

A. Yes.

Q. Okay. I was a bit unsure what you meant by mythical status. Did you mean it was like it pervaded the culture of the – of the sector or it was something that wasn't real? What do you mean by that?

A. Yeah. It certainly was real. What I meant was that it became the – it became a major point – talking point or something that peep – the people had raised concerns about and that we were involved in conversations about but also that people came to understand it as a – an absolute. When – over the time it became apparent that there were small options being created but they – people were correct that there wasn't a planned approach nor a proactive approach…

Q. Okay.

A. …to creating small options.

Q. All right. And that's how I understood your evidence yesterday but – but following from

there I take it when you either were involved with public meetings or whatever this would be something that would come up, right?

A. It would.

Q. Yeah. In terms of its – its status within the Department as opposed to the understanding of it or the discussion about it. I understood from your evidence that in a real sense it was simply, the moratorium, was simply an internal Departmental decision rather than a – a formal Provincial Government policy. Is that a fair characterization?

A. The reality is – is I don't actually know. The role that I was playing at the time was working on the particular project to develop the three community-based options I described. I wasn't actually part of the – the program but I have – I have no reason – I – I cannot recall ever seeing a document that laid out the policy basis for the moratorium with some concrete structure around it or anything like that so I don't know at what level the decision was made but it certainly was a guiding factor in the conversations we were having…

Q. Okay.

A. …about the creation of community options.

Q. Okay. Yeah. And again I'm just trying to

get at the level at which had – had been approved or was in practice or whatever and…

A. Yeah.

Q. And I mean I – I guess what you're saying – so let me move on from there and asking exactly what was the moratorium? Our sense is that it was kind of a moratorium/freeze on the approval of new small options. Is that it?

A. Again I don't know if there was – ever a clear definition. What I understood it to be…

Q. Yes.

A. …was in line with the words that you've used with the caveat that I you know I – I have the experience and certainly heard from others who had more in-depth experience than I…

Q. Yeah.

A. …that there were still the creations of…

Q. Okay.

A. …small options but only in response to particular things that had…

Q. Right.

A. …come up. Not the creation…

Q. Okay.

A. Planned creation.

Q. And that's the – how I understood your

evidence yesterday. There was the moratorium but there were exceptions. Is that…

A. Yes – yes.

Q. But not kind of *ad hoc* as opposed to designed ones or planned ones. Is that…

A. Yes.

Q. …it? Okay. I mean that's – that's what I thought you had said. Now I'd like – I'd – but it had – it referred to small option homes as opposed to something else? The moratorium.

A. Yes.

Q. Yeah. Okay.

A. That's what I understand.

Q. In terms of – I'd like to ask you about the when of the moratorium and to do that I'd like to ask you to turn – it's book 6A, Tab 6, so it's Volume 1 of 3. Is that the one you have there?

A. I believe so. So this is – this tab would take you to a report of the review of small options in Nova Scotia?

Q. Right. And if you – if you turn to Page 6 of that – sorry. It – it's Page 11. Sorry.

A. M-hm.

Q. And it's Page 1,768 of the joint book. Under the heading after – after April '95. Do you

see that?

A. Yes.

Q. Essentially it's saying that the Department of Community Services notified all Municipal Units of a moratorium on new community small options and/or placements in them without approval of the Department. So my question is I – I take it that that accords with your own understanding about when the moratorium was imposed?

A. I don't know if I've ever really had an understanding of when it started but I have no reason to think this…

Q. Okay.

A. This makes sense given when I joined the Department.

Q. Okay. Yesterday you said that – yesterday you – I understood your evidence essentially about the – the name, the label, of the moratorium was that it actually originated from, I'm going to say from the community, and because it seemed, in some sense, at the – Government embraced it or took on the term. Is that – is that right?

A. That's what I believed to be true.

Q. Okay. So it – it – it was the – coming

from the community and then Government started using it. That was your understanding?

A. Yes. That was my understanding based on the conversations I had with – when I first joined the Department.

Q. Okay – okay. (whispering in background) I wanted to turn – because there's some important passages. It's actually in the supplementary book which I think Ms. MacPhee is… (whispering in background)

MS. MACPHEE: It's okay. I – I think we have it. (whispering in background)

BY MR. CALDERHEAD:

Q. So these – so it's Tab 4E of this supplementary book. It's actually a Hansard transcript. The – there are printed page numbers in that book in the top right corner and it's 347.

A. Yes.

Q. Do you have it there?

A. Yes. I do.

Q. All right. The – so this is a Hansard of the committee of the whole house on supply. I – do they call these supply debates? Is that what your understanding is? It's…

A. Yeah. We'd be sometimes working with

public accounts.

Q. Okay. Public accounts but it's – it's – it's a – it's a committee of the legislature, right?

A. Yes.

Q. Okay. So we're looking at one for May 1st and I'd ask you to turn to the Hansard Page 468.

MR. KINDRED: I'm sorry. I've lost track of things. Which tab are we looking at?

MR. CALDERHEAD: It's – it's the Hansard, Page 468, but the page number is 506 that's been…

MR. KINDRED: The…

MR. CALDERHEAD: …printed.

MR. KINDRED: But which tab are we…

MR. CALDERHEAD: 4E.

MR. KINDRED: 4E. Tab 4E I have April 29th.

MR. CALDERHEAD: Sorry. If it's – I'm sorry. Is it 4F?

MR. KINDRED: 4F of the Hansard. Okay.

BY MR. CALDERHEAD:

Q. Okay. 4F. I'm sorry. It's 4F and it begins at Page 429. It seems to be marked B of the – of the – of the Exhibit book but if you flip over to the next page that – the Hansard Page Number is 393. It's dated May 1st. Do you see that?

A. Yes.

Q. Okay. So these are – this is a debate that's happening in the – in the House of Assembly, May 1, 1997. Do you see the heading there?

A. Yes.

Q. Okay. I'm going to ask you to turn to Page 468 of the debate and it's Page 506. It's numbered Page 506 in the – the top left-hand corner of the page.

A. Okay.

Q. You have it? All right.

A. Page 506? Yes.

Q. Yeah. You'll see the 506 – it's a bit confusing but is the page number of the whole book but 468 is the Hansard page reference.

A. Yes. I see.

Q. All right. And it's dated again May 1, '97, and the – the – there are members of the House of Assembly talking there. Mr. MacEachern, for the record, is the Minister of Community Services at that time. So the – so I'd ask you to – we have a copy, Mr. Chair, for you – recognize you…

THE CHAIR: Mmm.

MR. CALDERHEAD: …probably don't have the…

THE CHAIR: Thank you.

MR. CALDERHEAD: The supplementary book…

MS. HARTWELL: Would – would it be possible actually to close - the sun…

MR. CALDERHEAD: Yeah.

MS. HARTWELL: …here.

MR. CALDERHEAD: Yeah – yeah. It's – this has happened before.

MS. MCNEIL: I think you just have to draw it with both hands.

MR. DOUGLAS: You have to do it the old fashion way.

MS. MCNEIL: Yeah.

MS. HARTWELL: That's better.

BY MR. CALDERHEAD:

Q. All right. (whispering in background) All right. The – so the top of the page there's a Ms. O'Connell, an MLA, who's – do you see a reference there to – to her asking a question or making a statement?

A. Yes.

Q. Okay. So she's saying, "But there was a cap last year," and I guess that means 1996. That was then because of needs slipped past instead of just clear and the Minister says, "Oh. I don't think so." Ms. O'Connell asked, "There was no cap?" And the Minister then says, "There's a moratorium on

community-based options." Right? And then she follows up by asking what that means, the moratorium.

A. Yes.

Q. And he provides an answer and then she follows again with another question, "Was there a funding cap last year?" And he answers, "No. There was a number cap." Right? She says, "Oh. A number cap. Okay, thank you, and was that number cap lifted?" And then he gives a substantive answer where he says, "No. It was a general moratorium and the only exceptions that would ever come, we allowed for example is we were closing the CTC's," which I think probably means the Children's Training Centres?

A. I assume so. Yes.

Q. Okay, "We provide for them," there may be some cases, I know for example in our area some of the people who are coming from the CTC we have built small option homes to help them, so there could be cases like that of a deinstitutionalization. Mary – Mary's Hill Home is the other one. I don't know it. Maybe you've heard of it?

A. No. I haven't.

Q. Okay. So he – you'll agree with me

essentially he's saying that there's a moratorium but there could be some exceptions for people coming out of Children's Training Centres or other institutions. She follows by saying, "There's a number cap," which mean you could only have so many people in them and the Minister says, "That's the – it's actually the number of houses, number of places, yes." There was no new community-based option facilities. So she's saying, is the cap the same as the moratorium, and the Minister says yes. So it appears that she was calling it a cap and he was saying, no, it's a moratorium?

A. Yes. That's what it looks like.

Q. Oh – okay. And she says, "So – okay. So no new places?" And then he says, "Well with those exceptions like Mary's Hill." And then I'd ask you to pick it up again and she asked another question, "Is the moratorium still in effect on new places?" The Minister says, "Yes, with that exception." She says, "So no new places can open?" This is right. She says, "So the only way somebody can get in at the moment is if somebody leaves?" The Minister says, "That's right." She then says, "Is there a backlog building up on the waiting list?" The Minister says, "Probably there is. Probably the

demand is there. Let me put it this way, when a space comes we don't have any difficulties filling it," and that goes back to Alfie's question. I don't know who Alfie is but Alfie's earlier question about if you have a License 3 and somebody were to leave, very few cases of which that is not filled very quickly, and then she asks about the numbers on the waitlist and the Minister says, "I don't know that there is a formal waiting list," and then over to the next page he says – I think he says we'll get back to you. So this is a – you'll agree this was a fairly detailed discussion about the nature, the content, the implications of the moratorium?

A. Yes. They – yes. There's a discussion…

Q. Okay.

A. Yeah.

Q. The – does it accord with your understanding as you came into the Department and asked, I don't know whether it was senior people, but people who had been there longer about how the moratorium worked? Does that accord with the understanding you obtained?

A. Yeah. Yes. There's nothing that stands out. I – I don't know if there are – I had heard

necessarily about the correlation between the Children's Training Centres and the creation of small options but there's nothing there that stands out that it doesn't line up with what I believed it to be.

Q. Okay. So there was reference there essentially to you get in if someone gets out. So that's what you understood as well?

A. Yes.

Q. Okay. Going back to what you said a few moments ago about the correlation with the Children's Training Centres. Were you aware that when the Children's Training Centres were closed some of the children went into small option homes?

A. Yes.

Q. Okay. So I'm not sure what – what – what do you mean by you weren't sure of the correlation?

A. Well I'm not sure – I – I guess I hadn't – had no knowledge or thought that there was a particular policy that would mean that they were holding spaces for small options but…

Q. Okay.

A. …certainly knew that they were – children were going into…

Q. Right. As those centres closed?

A. Yes.

Q. Okay – okay. So thanks for that. So having looked at the Hansard and as well the – the earlier reference to the report on – on small options, or the review I guess as it was called, I think there are like five things that I think we can take from that and I'll – and I'll ask you about them. You'll agree with – with me that the first one probably was that the, I'm going to call it the content or the nature of the moratorium, was a cap on the number of small option homes subject to the exceptions that you talked about?

A. Yes.

Q. Okay. So it was a moratorium on new homes basically or newly opened homes subject to those exceptions?

A. Yes.

Q. Okay. Secondly, with respect to whose idea it was to call it the moratorium, you'll agree with me that, at least on that exchange in the legislature from May '97, the Minister's definitely calling it a moratorium. Right?

A. Yes.

Q. And – and another member is saying well it's a cap and he's saying well, no, it's a

moratorium. Thirdly it sounds like it was a formal thing like a formal decision…

A. Yes.

Q. …the moratorium?

A. Yes.

Q. And I – I don't know what you call it, a policy whatever, but it – it – it had a – an existence. Clearly somebody – it came about as a result of a decision by someone in the Department. Correct?

A. Yes.

Q. It didn't happen on its own so somebody…

A. No. Yes. Agreed.

Q. The earlier document talks about formal notice and the Municipalities were notified of the moratorium. So there was some notice about it. Right?

A. Yes. That's what it says. Yes.

Q. And lastly we see the Minister here saying that it resulted in a waitlist or people needing to wait because of the – the moratorium. Correct?

A. Yes. That's what he says. Probably the demand is there.

Q. It – the moratorium, when it came in in

'95 that would have represented a major change especially for that sector and it's stake holders. Right?

A. Yes. I – yes. I believe so. Yes.

Q. Well in terms of it putting a freeze on – on – okay. Based on your experience as a Deputy Minister, and I'll say extensive experience in a variety of roles, something like this would have had to have been ministerially approved? Would you agree?

A. Yes. Based on my experience how Governments work, since the time that I've been in it…

Q. Yeah.

A. …decisions like this would result in at least ministerial approval.

Q. Okay. The – kind of carrying on from there I wanted to ask you, what I'll call – I'll call it the moratorium era so not so much the creation of it or the initial period but kind of the carrying on, the report that we looked at earlier, the report of the review on small options, said essentially pending completion of this review the growth of the system was suspended. So – and that was from 1998. So you'll agree that people

would have expected the end of the moratorium by '98, right, but we can take – I can take you to the report if you'd like to have a look at that.

A. Right. I – I – I – I have no – I'm sure that people had expectations that things were going to move faster than they did. Yes.

Q. Okay. The evidence however is that the moratorium, subject to the exceptions you've talked about, continued for many years. Right?

A. Yes.

Q. And for example there in the record there's a DCS webpage printout from 2004 inform – informing people interested in small options that there's a moratorium in place.

A. Yes.

Q. And there's similar documents and statements for many years thereafter so my question to you is that, going back to your period when you came on in 2004 and '05 so we're now probably eight or nine years into the moratorium at that point, you were working in the area of disability supports. Right?

A. Right. I was working on the project that was about developing the community – the – the new community-based…

Q. Okay.

A. …options.

Q. As – so as a result of that you would have had ongoing awareness of the moratorium's existence?

A. Yes. That's when I would have learned about it. Yes.

Q. Okay. In terms of annual budgeting, planning, programming, *et cetera*, you and others would have had to consider the moratorium, the existence of the moratorium, every year. For example, as in are we going to maintain it or is it going to end, do you agree?

A. Others would. I would not have been involved in budget conversations at that point though.

Q. Okay, but in terms of planning, in the…

A. Yes.

Q. In the – in future, particularly around small options, there would have been discussions you overhear and there is a moratorium. Is that going to continue? Is it going to change? And I'm – I'm not asking you whether you were deciding it but whether you were…

A. Yes.

Q. You were aware of those ongoing discussions?

A. I – I really would not have been aware of those conversations. Again I was working a project that was to the side. I was not part of the program team. In the normal course however you're correct that on an annual basis there's an annual budget and there was a review of current budget initiatives and future budget initiatives so undoubtedly the range of options would have been part of a conversation in budget but I know that based on my experience…

Q. Right.

A. …now. Not from…

Q. Okay.

A. …that time.

Q. So based on your experience it's reasonable, presumably, that there would have been an annual decision as to whether an important program like this or – or moratorium, for example, would continue or should we change it or amend it? That would have been reasonable? The people would have had to address their mind. Right? To – to…

A. Yes. That's a reasonable assumption.

Q. Okay. So let's talk about the exceptions

to the moratorium and you essentially said that the moratorium was in place and it carried on for a long time but there were exceptions although the exceptions, I used the word earlier, "*Ad hoc*," and is that a fair – they were unplanned and they came up as a result of in particular situations. Right?

A. Yes. I would characterize it that way.

Q. Okay. So for example, when the – there has been evidence that when the Halifax County Rehab Centre closed in 2002 there were some small options opened and – and some of the people leaving Cole Harbour, as it was called, went into small options, and – and that would be the kind of exception I think the Minister refers to that so planned closing of institutions would be an exception to the moratorium. Right?

A. Yes – yes.

Q. Okay. I'd like to ask you about some *ad hoc* exceptions. There's been evidence, in fact considerable evidence, about what have been called high profile cases being exceptions to the moratorium and I take it that you would have been – had some familiarity with them, both either at the time, or in your experience since then?

A. Yes.

Q. Okay. For example, Brenda Hardiman testified here in these proceedings about having been a very strong public advocate for her daughter, Nichele, and she testified about how a – a few years ago she met with the Premier and within a few months she got the green light for her daughter to move into a small option. Given your role am I correct in assuming you would have had familiarity with that case?

A. Yes.

Q. Okay. So would you call that a high profile case that essentially, a decision was made, override the moratorium and create a small option? Is that a fair way of looking at it?

A. I – I would characterize it as a high profile case. Yes.

Q. And the outcome of the high profile case was to make a small option?

A. In that case, yes.

Q. Okay, but that was kind of seen as an exception to the ongoing moratorium?

A. Yes. Although I have to clarify that I would say that in the years – the later years I think the – the hardened fast idea that there should be no new small options created was starting to

wake people – there was already a sense, certainly when I was around starting I guess ADM, and – whenever that was 2013 or so, 2012. There was a sense that we – the small options needed to be created so I – I don't – I don't know if there was ever like a – there wasn't a formal we're stopping the moratorium but there was a sense that the moratorium had to not just include high profile exceptions but had to include some planned – we had to – to start to respond to some of the things that we were hearing from case workers and clients who knew that we needed to start to develop other options.

Q. Okay – okay. There is – so through that period there's a recognition to step back and say hey we need to – to take a policy approach to this, a principle approach as opposed to an *ad hoc* exception approach. Is that a fair way of…

A. Yes.

Q. Of looking – you said the high profile cases were – you must have had familiarity with other high profile cases?

A. Yes.

Q. How many would there be approximately?

A. So if I use the loose definition…

Q. Sure.

A. …of high profile that there's media attention, there's meetings with MLA's, Ministers, Premier's office. Those would be high profile, I - I guess, somewhat externally driven. There are also high profile cases that staff bring to our attention where there is a clear urgent or compelling need to do something different and so there are – are internal high profile cases that we hear about from within our system.

Q. The – so in terms of the high profile, not the internal staff one, but the kind of public ones…

A. Yes.

Q. …through advocacy or someone – how many would there have been that you had involvement in personally?

A. Personal involvement…

Q. Or were aware of?

A. A – aware of? I'd probably be aware of – really it's hard to ballpark. I – it's hard to even guess. It could be a dozen.

Q. Okay.

A. My personal involvement would be much less.

Q. Okay. And – and a dozen and these were a dozen individual cases. Right? Not homes.

A. No. Individual cases and I really – that number is you know I – I've been Deputy for almost five years so that number maybe off because…

Q. Okay. I understand. It's a rough and ready…

A. It's really a rough number.

Q. Okay. I understand. During the moratorium, and I'm – I'm talking later on now, through, I'd say through 2007, '08, '09, '10 period, were you aware that there seemed to be an approach within the Department to in a way actively discourage people from seeking a small option home given the moratorium?

A. Sorry. Could you say that again?

Q. Yeah. My question is were you aware that within the Department there was a kind of a formal policy to discourage people from looking for a small option home to steer them to other options?

A. And what was the time frame you referenced?

Q. Let's 2007 to '10.

A. I – I – I wasn't – I wasn't aware of that and that time frame would have been around the time

I was in the policy role and – and moving over to LAE at some point. I wasn't – so I wasn't aware if there was a – a formal – a formal directive to staff to do that or of an informal push. I would say though that I certainly was aware that there was a desire to support as many people as possible in the community-based options like direct family support, independent living, all of those pieces. So I knew there was certainly a push to have – to see how many people could be served through those programs.

Q. Right.

A. But I – I'm not aware that there was something more formal but again I wasn't directly attached so…

Q. Okay.

A. …there may have been a directive. I'm just not aware of it.

Q. Okay. And – and we'll come back to this but the idea of urging people to direct family support or independent living, without spending a lot of time on it, you'll agree with me that that works for some people but many people that wouldn't work for them…

A. Absolutely. Yes.

Q. And – and maybe just elaborate on that.

Who wouldn't it work for?

A. There's a – well direct family support is based on the premise that the family is willing and able to have a family member reside with them and then there are some situations where that is not a possibility nor is it the best fit. Similarly independent living support the program parameters are based on the idea that people can be – live quite independently and require up to 21 hours of support a week. That's the current policy parameter. So beyond that they're – if people's needs change or if people don't want that level of you know uncertainty, they want a bit more support, wouldn't fit. So again people are very individual so that approach of saying, here – here's some program offerings, not everyone's going to fit into each program offering.

Q. Right. So for example, those people who require kind of 24/7 support, the DFS or Flex Program, that wouldn't work for them, right?

A. Right – right.

Q. You know if – if – if – if they're not – if they don't family available to them?

A. Right. Yes.

Q. So in those situations, though it's

steering people to those options, wouldn't be useful?

A. Right. Depending on the nature of the support that they require.

Q. All right.

A. So if – so for example, there are people who may need 24 hour support but it's of a safeguarding, they – they need someone to be aware of where they are and what's happening…

Q. Yeah.

A. …that maybe appropriate and feasible for a family to do that.

Q. Right.

A. For others they need more intensive support with…

Q. Yeah.

A. …feeding, medication…

Q. Right.

A. …other pieces that would be a different level of support.

Q. Okay. And – and the family kind of involvement again wouldn't be relevant for people who either don't have family or it's not a good fit to be involved with their family. Right?

A. That's correct and – and…

Q. Okay.

A. …I'd also go further to say that most of adults don't live with their parents.

Q. Right.

A. So there's also a level of wanting to seek and independent situation…

Q. Right.

A. …beyond that of a family situation.

Q. Right. In a way what you're saying now raises a more general point that people with disabilities, as they become adults, should be regarded as like everyone else and – and not everyone else but primarily everyone else in – in having an expectation that they'll live away from their – their family. Right?

A. That's right.

Q. Okay.

A. It should be a choice.

Q. Yeah. So I'd ask you to turn to Book 8, Volume 3 of 4, is that available to you?

A. I have 8D.

Q. I know. It's a bit complicated. I think Ms. MacPhee is going to help you with it.

MS. MACPHEE: What's the tab number?

BY MR. CALDERHEAD:

Q. Tab number 94 and it's found at Page 6,269 of the – of the joint book. (whispering in background)

A. Yes. I have it.

Q. The Department of Community Services' review of residential services, services for persons with disabilities, there's a handwritten date there of May 31, 2012, but again that's handwritten. Why don't you take a moment – what – what is this and – and – and I'll – I'll leave this question with you. What kind of document does this appear to be to you? (whispering in background) There – in the – the background is there had been a review of residential services. It's the evidence that…

A. Yeah.

Q. That - through the mid 2000's.

A. I – I – I'm not familiar with this document at all.

Q. Okay. What – my question is what kind of – is the – like within – within the bureaucracy is an internal kind of document going through policy – I mean is that the kind of thing that it would be looking to?

A. I really don't know its origin. It looks

like a template that's – has been provided for someone to complete but I'm not sure who that would be.

Q. Okay. I'll ask you to turn to Page 6 of the document which is the – it's Page 6,274 of the joint book.

A. Yes. I have it.

Q. Okay. And the – Number 24 you'll see it kind of midway in the page. It says,

"The transformation is to be about small living arrangements, small options, to community homes subject to the rigors of licensure is actively encouraged."

In the next paragraph,

"In the interim the small option should not be a living option offered to persons with disabilities and complex needs."

And then it goes on to say,

"People currently living there should be entitled to remain."

But – but this statement that small options should not be a living option offered you're saying that – you said a few moments ago that people were – you were aware of people being urged to consider other options?

A. Yes.

Q. So this is not inconsistent with that, right, and – and particularly given the context of the moratorium. This statement that small options should not be offered to persons with disabilities that would – in a way that would be quite reasonable given that there's a moratorium in place?

A. Yes. Although I will say that if this truly is dated May – if it – if the date is correct, the handwritten date, May 2012, well I wasn't part of the Department at that time. I – I'm surprised that it would be that black and white that small options would be – should not be a living option. That – that surprises me.

Q. All right. In the context of the moratorium, subject to the exceptions to the moratorium, someone telling their care coordinator,

I – I want a small option, that the – there's been evidence, I – I think even policy manuals, that says well care coordinators have to tell people, or should tell people, if – if that's what your understanding there's going to be a significant wait. Correct?

A. Yes.

Q. And so this statement that it should – should not be an opt – living option offered to persons, that consistent with that, isn't it?

MR. KINDRED: Well - sorry. If we could – I – I want to make me sure that a clear question is put to the witness. That the – the document in the index is described, and I believe it to be, CSA renewal summary of recommendations and DCS responses and if you see the structure seems to be a numbered recommendation and then below that a DC – a DCS response. So I just want to be clear if we're putting to the witness that recommendation or the – or the Department's response to that recommendation. If it's being suggested that something's the position of the Department I think it should be clear whether we're referring to something that was recommended to the Department or the response the Department made to that

recommendation.

MR. CALDERHEAD: I mean I'm – I'm simply reading from the document.

MR. KINDRED: Right, but you're reading from a passage that I – if I understand the structure of the document is a recommendation made to DCS below which there is a response that I think if I understand the structure of the document is the response from DCS. I think it's – we ought to be careful to put to the witness and suggest that the position of DCS is something or the other.

BY MR. CALDERHEAD:

Q. All right. Let me – let me go on this approach. Given that even now – even now people are cautioned about waitlists and in – in the context of the moratorium, for example…

A. Yes.

Q. …the people applying for small options or see – showing interest in small options, care coordinators are directed to tell people essentially a realistic approach in terms of…

A. Yes.

Q. …what their expectations…

A. You need to set expectations. Yes.

Q. All right. So let's go back a few years

to the – and – and if you look through the document there are various dates provided. There's references to something happening in 2010 and followed 2010 so we know it was certainly from that time frame, and – and there's periods of 2010 and '11 referred to, so in situating those dates within the context of the moratorium a suggestion that people should not be offered small options is not – is not – if that was a suggestion it would realistic because there weren't any new ones being opened. Right?

A. No. I agree with that. The – the part that I was struggling with, and it's actually helpful to be reminded I actually don't know wrote this, if it was a recommendation from outside of what was – or from some other place or if it was actually something the Department – it's the transformation of three bed, small living arrangements, small options to community homes subject to the rigors of (inaudible, mumbling) actively encourage. That was the part that I – when – when I made the comment I'm surprised to see that written in that level of clarity.

Q. Because?

A. Because that would not be – all –

although that might have been in a view that was held by some. It – it certainly wasn't a – a view that when I returned to the Department I found that that was the active plan and certainly by the time I was in the role to be able to influence that that would no longer be the active plan but I guess I hadn't real – I – I don't know who wrote that and I…

Q. Yeah. You…

A. So I don't know the context for it.

Q. We don't know either. We were provided it from the – from the Province and apart from that we don't know.

A. Okay.

Q. The – the – just on your last point though when you came into the role – was it 2010 when you like when you came back on, a few moments ago you said…

A. 2012. Yeah.

Q. 2012. If that had been a suggestion of what expanding small options, or growing them, or making them larger that was – that was something you were discouraging or it's simply just…

A. Well…

Q. …not part of the policy?

A. If I'm reading that it's…

Q. Mmm.

A. …saying that transforming small options into community homes…

Q. Right.

A. …which I'm reading would be in large and living situations.

Q. Yeah.

A. I would not actively encourage. I believe, as evidenced by our work, that small options are an important part of the continuum that there need to be…

Q. Okay.

A. …so I would – I would not be supportive of actively looking to move all small options to group homes.

Q. Okay – okay. Just from a policy point of view?

A. From a – yes. From a policy point of view.

Q. Okay. Let's move on. I want to ask about the end of the moratorium. In your evidence yesterday in answer to Mr. Kindred's question about when the moratorium ended my notes have you saying that we got a clear signal two budgets ago that it was over. Is that a fair…

A. Yes.

Q. Basically what you said?

A. Yes.

Q. Okay. Who gave that signal?

A. Well the – that would be the – it was a formal Government decision to provide funding for us to actively create…

Q. Okay. So formal Government as expressed in the budget. Is that your…

A. Yes.

Q. Okay. So I just need to…

A. Yes.

Q. …kind of have that clear for the record and it was – am I right that it was a budget commitment to open eight small option homes over two years? Was…

A. Yes.

Q. …that it? But apart from that there was no formal statement or anything saying the moratorium's over?

A. Not that I'm aware of.

Q. Well you would…

A. We may have…

Q. …be aware of it? Yeah?

A. Yes. I – I'm not aware. I – I think we

did make announcements we are building small options.

Q. Okay, but it wasn't linked or you know said to be the end of the moratorium era or anything like that?

A. I – I don't recall us using that language in any of the press releases. No.

Q. Okay. So moving forward to – that was two years ago when you got the signal as you put it?

A. Yes.

Q. Moving forward to last Fall in the budget supply debate, so I'm referring now to a statement from October 10th, the Minister was in the legislature and we've seen, and we can refer to it it's Exhibit 56. The Minister said,

> "It's actually been 15 years since we had small option homes, or more than 15 years, since we had small option homes built."

Given your role, I'm – I'm correct aren't I, that you were present for that statement?

A. Yes.

Q. Okay. And – and I take it that the

Minister's statement accords with your own understanding of the extent of the moratorium? Of – of the – this represented the first new investment in new – I'm mean – I don't mean an increase in funding. I mean new small option homes in a kind of planned way?

A. Yes.

Q. In 15…

A. In a planned way. Yes.

Q. In 15 years?

A. Yes.

Q. Okay. Just bear with me for a moment. The – to concretize it and get away from – from policy statements and so on I wanted to (whispering in background) refer you to actual numbers when it comes to small option homes.

A. Sure.

Q. And – and they're found in Volume 3 of the joint Exhibit book and we'll look at Tab 17. (whispering in background)

MR. KINDRED: I'm – I'm sorry. I missed what – what are we looking at?

MR. CALDERHEAD: Book 3.

MR. KINDRED: Okay.

MR. CALDERHEAD: Tab 17.

MR. KINDRED: Okay.

MS. HARTWELL: Thank you.

MR. CALDERHEAD: Mr. Thompson, Ms. MacPhee is going to give you a copy of this for your own records.

THE CHAIR: Thank you.

BY MR. CALDERHEAD:

Q. So the – we've – we've reviewed this before (whispering in background) in this proceeding and it's a – essentially it's a printout of the residential support options over time and maybe just take a moment to familiarize yourself with it. Have you seen it or something like it before?

A. I – I see a lot of charts listing numbers. I – I don't know if I've seen this one.

Q. Okay.

A. But I certainly see charts showing numbers of beds on a regular basis.

Q. Okay. So this in the book. It's Tab 94. That's where we're at I think. Sorry. Tab 17.

A. Yes. Tab 17.

Q. Okay. And about – what is it? Five or six lines down,

"Small options (licensed) three or more clients."

Do you see that row?

A. Yes.

Q. That heading? And it starts in '98/99 in this printout and in general terms there's a big drop from the kind of 912 figure to the 600 figure?

A. Yes.

Q. There's an asterisk there which helpfully explains that in the – do you see the kind of down the – in the footnotes so to speak?

A. Yes.

Q. There's an asterisk and it's essentially saying about referring to the transfer. We've heard about the transfer of I think probably seniors to Department of Health and there's a specification that 40 small option homes, 92 seniors, so I think that probably explains the significant drop from the 900 level down to the – the 600 level. Do you see that?

A. Yes.

Q. Okay. Would that accord with your own understanding?

A. Yes. I…

Q. From that time period?

A. Yes. I'm – I'm aware there was a transfer at some point to have…

Q. Okay.

A. …this.

Q. Okay. Really that's all I'm asking is…

A. Yeah.

Q. And that would be consistent with that and this is DCS so DCS had smaller numbers at the time when the transfer happened. Okay. So moving across from fiscal 2000/2001 you'll see 636 on the small option home capacity and then we see numbers kind of mid 600's. 679. 685. 2000 to 2003. (whispering in background) And so kind of in the mid 600's through – up to 2007 and '08. Right?

A. Yes.

Q. Okay. So next page as we continue over time and staying with the small options again, '08, '09, '10, '11, again it's kind of just in the 600's generally. Would you agree?

A. Yes – yes.

Q. Okay. And – and then in 2011/12 there's disaggregation, if I can put it in those terms, where it's broken down for unlicensed, i.e., smaller small options…

A. Yes.

Q. …and also children.

A. Yes.

Q. But I think if you – if you add them up the totals probably are quite similar to what they had been. It's just that they're – they're broken down starting in 2011 and '12. So in the last few years shown on that table, 2014/15, '15/16, '16/17 the – the – you won't have done the math but there for the '14/15, '15/16, there is kind of mid 600's and then in '16/17 the number is, I believe it's 687, the total and that would be the total of 625 plus 24 plus 38. I'm not asking you…

A. Okay.

Q. …to do the math.

A. I'll trust your math.

Q. Sorry?

A. I'll trust your math.

Q. Well I mean it – it – even ballparking it you can see that it would be in the 600 range. So when – that's in '16/17. When you flip back to the earlier page and you look in the mid – through the 2000's, mid 2000's, it's more less the same. Right? You'd agree with me that that's a, you used the term metric, but a – a quantitative expression of

what we've been talking about? The moratorium.

A. Yes.

Q. Okay. A last question I wanted to ask you about the small option homes the evidence is that within small option homes the people living there have been assigned, I won't say classified, have been assigned, there's actually a very wide range of levels of support, people who live in small options?

A. Yes.

Q. From one through five in fact?

A. Yes.

Q. Okay. I'm going to shift gears and – and I – I don't know, Mr. Thompson, whether this is a good time for a break or shall we continue?

THE CHAIR: Well I…

MR. CALDERHEAD: We started a bit earlier.

THE CHAIR: Yeah. I – I leave it to you to determine what a logical time would be. I would have thought we might go to 11:00.

MR. CALDERHEAD: Oh. Okay.

THE CHAIR: If you're planning to go to 12:30 or so you know…

MR. CALDERHEAD: Yeah.

THE CHAIR: …but…

MR. CALDERHEAD: That's fine.

THE CHAIR: …I'm – I'm happy to oblige.

MR. CALDERHEAD: No. That's fine. I'll…

THE CHAIR: Okay.

BY MR. CALDERHEAD:

Q. …carry on. I wanted to shift gears totally. Put down the quantitative stuff and – and the policy documents. I wanted to ask you about service providers in Nova Scotia but particularly in the Metro area.

A. Okay.

Q. In your role you would be familiar with RRSS as a service provider in…

A. Yes. Regional Residential Support Services. I think.

Q. Yeah. I always stumble when I'm – I'm – spell it out but over in Dartmouth, right, is there head office?

A. Yes.

Q. Okay. And – and there's been evidence that they're the largest provider of small option community-based living in Nova Scotia so I take that you're aware of that?

A. I didn't know they were the largest but it doesn't surprise me. I've…

Q. Okay.

A. Their name I hear a lot.

Q. Okay. And in what context would you hear the name?

A. So if there is a case that has escalated that I'm – I'm keeping an eye on I will you know sometimes receive a note saying that a placement with RRSS or another service provider is being contemplated actively pursue that kind of – just so – that's really the context in which…

Q. Okay.

A. …I hear it.

Q. So maybe high profile cases – maybe just internal cases that people feel need to be resolved…

A. Yes.

Q. …often RRSS is looked to as a – as a service provider in the Metro area?

A. Yes. I – yes.

Q. Okay. I take it that DCS has high regard for their work?

A. Yes.

Q. Sorry?

A. Yes.

Q. Okay. I mean – and – and I guess I'm

asking whether you're satisfied with the quality of their service and – and their team and so on?

A. Yes.

Q. Okay. There's been evidence that in some high profile cases, and maybe these fall in the exception to the…

A. Mmm.

Q. …moratorium, DCS has looked to RRSS to see if it can help provide a solution. Is that your understanding as well?

A. Yes. Among other service providers but RRSS in particular. Yes.

Q. Okay. And why in particular? Because they're…

A. I think they have in the past been able to provide placements for some very complex behaviors.

Q. Okay. And – and the Department's comfortable with them? With what…

A. Yes.

Q. …they've done?

A. Yes.

Q. Okay. In fact the RRSS ED, Carol Ann Brennan, testified in this case and I don't know whether you know Ms. Brennan?

A. I do. Yes.

Q. Okay. Were you aware that at one point she was seconded to work with DCS to do Road Map/transformation work?

A. Yes.

Q. Okay. And how is it that you're aware of that?

A. Well when I was working on – when I was in the role of ADM working on the Road Map, again returned to the Department after sometime away, Carol Ann had – was there, seconded, and ended up working on some of the pieces…

Q. M-hm.

A. …to support our work.

Q. Okay. And she would have been regarded because of her expertise to – in this – in certain areas?

A. Yes. I'm not sure what the term of her secondment was. I knew…

Q. I'm not asking that really but…

A. It was before my time but – but yes. She certainly – she had lots of experience in some of the challenges that we were facing. Yes.

Q. Okay – okay – okay. That's all I wanted to ask you about RRSS and – and your understanding

of their – of their service. I wanted to switch topics. It actually – Mr. Thompson, this actually might be a…

THE CHAIR: Okay.

MR. CALDERHEAD: A – a decent time for a short break.

THE CHAIR: Good, Mr. Calderhead. Yeah – yeah.

MR. CALDERHEAD: Thank you.

THE CHAIR: M-hm.

[RECESS 10:29 A.M. – 10:48 A.M.]

THE CHAIR: Okay. Mr. Calderhead, are you…

BY MR. CALDERHEAD:

Q. Yeah. Thank you. (talking in background) The – so maybe just a – a - a couple of quick points. My friend has helpfully clarified – Ms. Hartwell, we were looking earlier at a – at one point you called it a, "Template document – a DCS template document," with kind of positions and recommendations. Not that – there's not a lot there but our understanding is that that relates to the residential services review from I think 2008 so it – so the text of the recommendations were – that we

looked at in that document were those found in the residential services review. I also note from – I see from my notes that I've failed to – to – there was one question I meant to ask you earlier on when – on the topic of, I guess I would call it, why should the Government be trusted this time to actually follow through? So there was something there and as I understood your evidence yesterday, and you'll correct me if I have it wrong, essentially it was this – essentially, as I understood, it was to say well look at what we're actually doing this time. Look what's happening as a measure of our commitment. Is that – is that a fair characterization?

A. Yes.

Q. Okay. Have – have I missed any – is it broader than that essentially based on what's actually happening?

A. Yes.

Q. What…

A. Based on the commitments made and the movement towards those commitments. Yes.

Q. Okay. So kind of follow through?

A. Yes.

Q. And – and people should take that as – as

a measure of is it going to happen this time? Is that right?

A. Yes.

Q. Oh.

A. Yes.

Q. Okay. And – and don't take this the wrong way but your role is as a civil servant implementing a Government decision, right? Executing Government policy, right?

A. Yes.

Q. All right. So in a sense whether the – there is continued action or movement on the Road Map is actually a policy decision? It's not a civil service decision I – and the fundamental level, right?

A. Yes.

Q. Okay. And so we saw an example of that when you referred to the signal that the moratorium maybe over two years but that's actually a – a political decision not a civil service decision?

A. That's right. We are not the decision makers. We recommend and provide options.

Q. Okay. And – and so it – whether there is any further movement on the – on the Road Map is – is – it's not really a function of your commitment

or your determination personally and – and that's all I wanted to clarify. Is that – is that correct?

A. Yes.

Q. Okay – okay. So changing areas, in a way really changing, you had explained that as Deputy your – your role was to supervise, I think you said three, four areas, but it might be four within the Department?

A. Yes. So within the – the Department there are three program areas. Housing Nova Scotia is a separate entity, although it has – has in the past been part of the Department, as – as Status of Women is arm's length.

Q. Okay.

A. But I'm also responsible for all of the corporate functions but the – there are three program areas.

Q. Okay. So Housing isn't seen as a program or – or it's separate or something?

A. So Housing is – Housing is a hybrid in that there are public servants who are employees of Housing Services which is part of Community Services.

Q. Right.

A. But there are also employees that are

part of Housing Authorities which are a – which is our arm's length.

Q. Yes.

A. And there's a somewhat convoluted reporting relationship between them, what was the Housing Corp which is now called Housing Nova Scotia, Housing Authorities I guess to say I refer to Housing Nova – Nova Scotia to – to mean all of those pieces but not all of the pieces are a part of the…

Q. Mmm.

A. …public service or part of the civil service.

Q. Is it right to think of it as in a way semiautonomous or is that…

A. Well they still report to a Minister and so…

Q. Yeah. Of course.

A. …they're autonomy is severely limited…

Q. Mmm.

A. …in the sense that their policy decisions and budget appropriations still go through a Treasury Board…

Q. Okay.

A. …and the Boards that exist (whispering in

background) for Housing Nova Scotia are individual Housing Authorities Boards.

Q. Yes.

A. And they deal with tenant matters. They don't – they are not Governments' Boards.

Q. Okay – okay, but the core program areas are Child Welfare, Income Assistance, and DSP?

A. Yes.

Q. So those are the big ones?

A. Yes.

Q. Okay. (whispering in background) So I wanted to ask you about the core areas. The core - you call them program areas?

A. Yes.

Q. Okay. The – and I wanted to ask you some questions about the similarity between Income Assistance and DSP.

A. Okay.

Q. And just so we can get the terms straight the Social Assistance Program currently in Nova Scotia, the main one, is the – under the *Employment Support Income Assistance Act*. Correct?

A. Yes.

Q. And – and often it's referred to as Income Assistance?

A. Yes.

Q. But it – it's the kind of current expression of Social Assistance. Correct?

A. Yes.

Q. Okay. And so if I refer to IA you'll – you'll know what I mean?

A. Okay.

Q. Is that how you refer to it?

A. Yes. I try to remember the ES part because it's important but…

Q. Right.

A. …yes.

Q. Okay.

A. I'll refer to it as IA.

Q. Okay. I don't refer to it as a Welfare Program. I call it Social Assistance. Is that an agreeable…

A. Absolutely is.

Q. Okay. And I want to – I guess I want to ask you about the DSP. Now it's under the *Social Assistance Act*. Correct?

A. Yes.

Q. Okay. So I want to ask you about comparisons between the two and similarities and differences.

A. Okay.

Q. So for both IA and DSP, if I can call it that, eligibility is determined by being a person in need. Correct?

A. Yes.

Q. I mean the…

A. Generally speaking. Yes.

Q. Yeah. They have to be persons in need to be eligible?

A. Yes.

Q. And importantly it – that in turn is based on the budget deficit system that we – the Board has heard about?

A. Yes. Currently. Yes.

Q. Okay. And – and that takes into account a person's income and assets and compares it to their allowable expenses. Right?

A. Yes.

Q. Okay. And both IA and DSP have a budget deficit system under their legislation. Correct?

A. Yes.

Q. Both programs, when you look at their policy manuals and the applicable legislation, both have referred to basic needs and special needs. Correct?

A. Yes.

Q. Okay. For example and – someone living in ILS would have basic needs and special needs, depending upon what their needs are, but that's similar to IA. Correct?

A. Yes.

Q. Okay. And so in that sense assistance is provided to persons in need in that, if I can use that expression, I think that's the expression we find in the legislation?

A. Yes.

Q. Okay. Am I missing anything or?

A. No.

Q. Okay. Now when we think about the IA Program you'll agree with me that it has important, and I'm going to call it accommodative features, and when I say accommodative I'm referring to the needs of people with disabilities. It's – it – like that is to say instead of treating everyone on IA the same there are provisions in that program to take into account of people with disabilities?

A. Yes.

Q. Okay. And what would be some examples of that?

A. Examples could be within the Special

Needs Policy where there are provisions specifically for special diet or other medically related pieces. It could be in the Wage Policy where people with disabilities in supported employment are able to retain a higher wage before it is calculated and the determination of their Income Assistance which is…

Q. That's often referred to as earnings incentives and so on?

A. Yes.

Q. Okay. Yeah. Any other examples of – of the accommodative features in the IA Program?

A. Yeah. So there would be some – maybe some differences related to shelter. The amount for – shelter amount for example but…

Q. Okay.

A. Yeah.

Q. On that point the – the basic shelter allowance for a single person is 300 a month but if you're a person with a disability it can go up to 535. Correct?

A. Yes.

Q. Okay. That…

A. Currently yes.

Q. Okay. So that would be an – like an

example of how the IA Program is tailored to meet the needs of people with disabilities? I need you to…

A. Yes.

Q. Yeah. Okay. And – but more particularly the special needs aspects of the IA Program are importantly tailored to respond to the needs of people with disabilities. Correct?

A. Yes.

Q. Okay. And so flipping over to the DSP Program many of the special needs policies that we find in IA are also there, aren't they? In the…

A. I believe so. Yes.

Q. Okay. And in fact they maybe identical in many respects, aren't they?

A. Yes. I believe so.

Q. Okay. Another aspect would be like exempt income. In terms of the budget deficits system and some incomes that would be exempt. Those would be mirrored both on the IA side and the DSP Policy?

A. Yes. I – I believe so. I'm hesitating only because I don't necessarily know the ins and out of the language in both.

Q. Right.

A. But the intention I believe is to – to

have as much consistency as possible as it makes sense.

Q. Okay. So maybe just elaborate on that when you said intentions to be consistent between the programs.

A. Well we have people with disabilities who are in our Income Assistance Program and of course people with disabilities in our Disability Support Program.

Q. Right.

A. So this is from a – a policy perspective, a you know Provincial policy perspective, you want to make sure that those programs are working together and creating as much of a support system that makes sense and so it shouldn't actually matter which program you're in.

Q. It shouldn't matter from…

A. Which…

Q. From…

A. Which program you're in so that you know you're – have access to the same types of supports. The difference though and – is in one program some things are provided – are provided by direct payment to a service provider or…

Q. Mmm.

A. …other pieces where an IA system not generally so although of course there's some exceptions there.

Q. For like Trustee situations…

A. Yes.

Q. …and so on? Okay, but in general terms the idea is that there would be a fair amount of, can I call it, policy integration between the two programs?

A. Yes. That would be the desire. Yes.

Q. Okay. And – and that gets expressed in very concrete ways in terms of assistance raised and so on?

A. Yes.

Q. For example, concrete when someone in the ILS part – program living in what used to be called a supervised apartment, those rates are identical to what the IA rates would be, aren't they?

A. I believe so. Yes.

Q. Okay. And that would be the – the – the intention – the design?

A. Yes.

Q. Okay. The – I don't know, and I think you said this a few moments ago, in a way both programs assist people with disabilities?

A. Yes. Not everyone on Income Assistance has a disability but a significant…

Q. Yeah.

A. …portion of people would.

Q. How – how significant?

A. We don't have a – a – because income – because disability is often self-reported we don't you know we don't necessarily have firm numbers. We can determine how many people are exempted from a work obligation or how many people are in receipt of special diet or other pieces that help us to see it. I would say antidotally is a number…

Q. Mmm.

A. …that we – we – we believe that it is the majority of people have some level of impairment.

Q. Okay.

A. If we're including mental health concerns.

Q. Okay. Yeah. And – and it too is a disability, right?

A. Yes.

Q. Okay. The people that you've said – my understanding is that some people move between the programs. Is that correct?

A. Yes. I believe so.

Q. Okay. And – and kind of can you describe a scenario where that might happen or…

A. Well the one that comes to mind for no particular reason is a couple that had been living in an Adult Residential Centre have moved together to a – an independent living situation in an apartment and so they have become – so they're I – they are primarily IA clients. Independent Living Support clients in receipt of IA.

Q. Mmm.

A. But there could be a situation where if one of them is not – not doing very well and wants to go back and live, spend a weekend somewhere or whatever you know go back for two months, or if they split up as a couple for example…

Q. Right.

A. …we…

Q. Right.

A. There could be a change and there's all kinds of variations on people who sometimes are living in small options sometimes then move into a different type of facility, sometimes move home with family, all of those things would change.

Q. And that might cause them to, for a lack of a better word, flip from DSP to IA or *vice versa*?

A. Yeah. I – I – I don't know. I think the – they'll probably be people better than me to ask about the mechanics of what our – how our systems…

Q. Right.

A. …actually work but I – I believe the – certainly our intent is that the transition between those systems, the walls between those systems, are – should be ones that we're maneuvering in the backend that for the client all they know is that their benefits are continuing in a consistent or are responsive to their changing circumstance.

Q. Okay – okay. And I'm not asking about the mechanics.

A. Yeah.

Q. But – but really all I'm asking is you know awareness of a reality of some people moving from DSP to IA?

A. Yes – yes.

Q. Right.

A. I am – yes.

Q. Okay – okay.

A. That makes sense.

Q. And – and on the same token conversing moving from IA to DSP?

A. Yes.

Q. And – and I think I understand you correctly saying it's intended that it be a seamless transition? Another similarity that both programs have it relates to their appeal system and I – isn't that right?

A. Yes.

Q. Okay. And – and is – isn't it the case that from 2001, when the IA Program came into effect, the – the what was then Community Supports for Adults but we call it DSP, the legislation said DSP appeals and there are appeals available into that program. Correct?

A. Yes.

Q. Okay. DSP appeals will actually be dealt with under the IA legislation. Correct?

A. Yes. I believe that's true.

Q. All right. Is – but – so there's kind of a common appeal system I guess is what I'm asking.

A. Yes – yes. I believe that's true. Yes.

Q. Okay. So let me back up. I referred to - 2001 the – the record shows that in 2001 is when the IA Program started. Before then it had been Social Assistance and Family Benefits. I presume that's your understanding as well?

A. Yes. I – as I have a vague recollection

of Family Benefits.

Q. Okay. It was kind of a categorical program, single parents, who…

A. Yes.

Q. …had disabilities and everybody else would be under Municipal Assistance under the *Social Assistance Act*. Correct?

A. Yes.

Q. Okay. In fact some Family Benefits people, if I can call it that, would actually be on Municipal Assistance while waiting to get on Family Benefits. Right?

A. Yes. I believe that's true.

Q. Okay. Kind of time delays taken on FB's as it was called. So okay. Pre-2001 the (whispering in background) – both, I'm going to call it Social Assistance and the Community Supports for Adults Program, were, pre-2001, were under the – both under the *Social Assistance Act*. Sorry. I'm needing to…

A. Yes. I'm just waiting for a question. So yes.

Q. Isn't that right?

A. Yes.

Q. Okay. All right. And the – so they were

provided by the Municipalities under that legislation. Correct?

A. Yes. I believe so. Yeah.

Q. Okay. And then in 2001 I take it it's your understanding that the definition of person in need under the *Social Assistance Act* was narrowed so that it would continue to cover only the, what was then called Community Supports for Adults Program, it's continuing relevance and applicability?

A. I'm aware that the *Social Assistance Act* continues to have relevance for the DSP Program but I'm – I'm not actually aware of the narrowing or – or a wording change. I – I couldn't describe it…

Q. M-hm. Right.

A. …but I know the intent was…

Q. Right…

A. …that IA did have its own legislative scheme.

Q. Okay.

A. Yes.

Q. And – and CSA…

THE CHAIR: Sorry. What – which have the own – its own…

MS. HARTWELL: Income Assistance would have

its own legislative – had its own piece of legislation.

MR. CALDERHEAD: Right.

MS. HARTWELL: That program.

BY MR. CALDERHEAD:

Q. I think there's a Hansard in the record where the Minister introduced the ESIA legislation and at the time said the *Social Assistance Act* will continue for what was then called Community Supports for Adults Program.

A. Okay.

Q. That – and I take it that's your understanding?

A. Yes – yes.

Q. Oh – okay. (whispering in background) So since 2000 – since 2001 the DSP continues to be authorized under the *Social Assistance Act* and legislation?

A. Yes.

Q. Okay. And – and so that program, and by that I'm going to mean the DSP, has to conform with those legislative requirements. Correct?

A. Yes.

Q. Okay. So let me – so are the kind of overlapped symmetries, similarities, between DSP

and IA and I'd like to ask you about some differences. Okay. You've said that both – while both programs assist people with disabilities, both IA and DSP?

A. Yes.

Q. However the DSP and its predecessor programs, and – CSA, SPD, DSP, those programs are only for people with disabilities. Right?

A. Yes.

Q. Okay. In fact very often very significant disabilities?

A. That's correct. Yeah.

Q. Okay. So that program is disability based and exclusively. There's no able-bodied people in that program. There can't be by definition.

A. No. I – I'm just struggling with the term able-bodied.

Q. Oh. People without disabilities.

A. Yes – yes.

Q. Okay. Yeah. You mean the categorical requirements for the DSP Program require one of three or four…

A. Yes.

Q. …disabilities? Okay. So let me – let me hone in on some distinctions between the two

programs.

A. Bless you.

Q. First of all on the IA Program when someone's found to be a person in need they're assisted immediately. Correct?

A. Yes. You're eligible or you're not. Yes.

Q. Right. And once you're – once you're eligible as a person in need you're never put on a waitlist or anything like that. Correct?

A. That's correct.

Q. Yeah. And in – secondly when you're, and I'm talking only about persons who would have been determined to be a persons in need, that is to say eligible?

A. Yes.

Q. You're assisted and – and I'm – I'm asking you knowing that not only are you the Deputy Minister you're also a – a member of the Bar. Correct?

A. Yes. Non-practicing. Yes.

Q. Non – non-practicing, but my question is when you're found to be a person in need you're assisted as of right and by that I mean IA's an entitlement program. Correct?

A. Yes.

Q. Okay. So there's a legally enforceable obligation to provide assistance to persons in need. Correct?

A. That's correct.

Q. Okay. The – and in – thirdly obviously there are IA recipients all over the Province and it's - my understanding is that the, in general terms, the caseload as opposed to the number of beneficiaries but the caseload is something like 28,000 cases around the Province. Is that about right?

A. Yes. 26,000-ish I think.

Q. Okay. Right. So there's kind of live streaming is there of the…

A. Yes. We monitor that on a monthly basis.

Q. Okay. So 26,000 or so and – and the number of beneficiaries, that is to say spouses and children, would be more like 45 is it? 40…

A. Yes. A little bit lower but again…

Q. Yeah.

A. …around that number. Yeah.

Q. Okay – okay. And – and those are throughout the Province. Correct? I mean every…

A. Yes.

Q. …town, county, and…

A. Yes.

Q. …region. So if someone applies for assistance in Amherst, or Yarmouth, or Sydney they're assisted there. Right?

A. Yes.

Q. Okay. And – and if they say look I – I'm on assistance now and I want – actually want to move to Truro they can – they can be – have it transferred there. Correct?

A. Yes.

Q. Okay. So it's in the community of their choice?

A. Yes.

Q. Okay. And conversely someone who's found to be a person in need is absolutely never told you're going to need to move to get assistance. We want you to move to Yarmouth or Sydney?

A. Yeah – no. Not in the IA Program. No.

Q. That would be inconceivable really.

A. That's right. The nature of the support we're providing is income support which can be provided no matter where the person lives.

Q. Okay.

A. There's…

Q. Okay.

A. It's a – it's often a virtual transfer of resources.

Q. By virtual you mean electronic?

A. Yeah.

Q. Okay – okay. Right. So there are – the people have total kind of freedom of mobility. I mean they can live where ever they want. Correct?

A. Yes.

Q. Okay.

A. Some of the services we provide to them though would only be provided in particular geographies where they – so for example there's not – if we're providing employment support services there's not a resume writing course or a training course in every town and village. There would have – there'd be some centralization of those types of supports.

Q. Right.

A. But the economic support there's no geography bound…

Q. Right. So there wouldn't – no one would be told look ESS, Employment Support, isn't available locally therefore you can't get assistance?

A. No. You'd still be able to receive ESS

but the place where you may have to go to receive that…

Q. Okay.

A. …might be a town over.

Q. Okay – okay. And lastly I guess the – in terms of basic needs, someone on assistance, they're essentially provided money, and often virtually as you put it, and essentially said look here's the money, it maybe limited, but it's up to you where you live. Correct?

A. Yes.

Q. Okay. So they're not told you need to live, in the old days, in the poor house. Those days are gone?

A. Yes.

Q. Okay. You've heard about that concept of the poor houses?

A. Oh yes.

Q. And what's your understanding of it?

A. Well I think about whether it's the – the poor house or whether it's work houses, yeah, understanding that based in – in some Victorian England concepts that were transferred here to the – to North America and I – I'm – I have received in the past briefing notes that started with the

history of the poor house.

Q. Okay.

A. And moved forward all the way to our current day so…

Q. Okay.

A. …vaguely familiar of their…

Q. Okay.

A. …existence. Not part of our current world.

Q. Right. Those days are gone and – but in the old days, and maybe even up close four – into the 40's and 50's there would have been county homes or poor houses or work houses where people who needed social assistance were told you need to live there. Correct?

A. Yes.

Q. Okay, but that hasn't been a feature since it was the 60's?

A. No. I don't believe so.

Q. Okay. So – okay. So that's the IA. Let me switch over to DSP and like this is the kind of compare and contrast. We haven't talked a lot about this but once found to be a person in – in need under the DSP Program, very commonly, people are subject to waitlists. Correct?

A. Yes.

MR. KINDRED: Objection. There is – so the – this question presumes that DSP is one type of benefit to which the answer is – is uniform and we know that DSP includes economic supports and other kinds of supports and the answer may very well be different so if – if – perhaps if the question could clarify – I – I don't think it's fair to – to ask that question that treats DSP as a whole as though the one answer will apply to every aspect of DSP.

MR. CALDERHEAD: With respect this is the Deputy Minister and – and if she feels a nuance to answer like you're talking about is required then she can give that.

THE CHAIR: Yeah. I'm – I'm just not sure I'm understanding your objection, Mr. Kindred.

MR. KINDRED: Well – and this is – this is like a – a – a point that is clearly going to an agreement that my friend has – has made in his submissions but…

THE CHAIR: Yeah.

MR. KINDRED: …he – so he's asked a number of questions about economic supports under Income Assistance.

THE CHAIR: Right.

MR. KINDRED: And is now going to ask, I – I presume if the avenue is going to follow, is going to ask similar questions about DSP.

THE CHAIR: Sure.

MR. KINDRED: In reality DSP includes a – a portion which is economic support that is similar to Income Assistance…

THE CHAIR: Right.

MR. KINDRED: …and includes other supports…

THE CHAIR: Well sure.

MR. KINDRED: …and some more any troubleshooting… (inaudible due to loud coughing)…

THE CHAIR: Yeah.

MR. KINDRED: So questions of this nature that just ask it as DSP as though it wasn't – there was no distinction between those multiple aspects I think are potentially misleading.

THE CHAIR: Well I – I think he's – what I understand Mr. Calderhead to be doing, and he can correct me, is trying to establish through the evidence of Ms. Hartwell the – the linkages between two programs.

MR. CALDERHEAD: Right.

THE CHAIR: Yeah.

MR. CALDERHEAD: And – and now

similarities and also differences.

THE CHAIR: Yeah. And I think in the context that you've pointed out of the – the argument that they want to make he can do that. I you know I – I take your point. I know what you're saying but I think that's – that's something of the fundamental argument that you'll have to make…

MR. CALDERHEAD: Okay.

THE CHAIR: …but I don't think you need worry of what would be misled by – by failing to distinguish, for the purposes of argument, the two programs.

MR. KINDRED: Okay.

THE CHAIR: Okay.

BY MR. CALDERHEAD:

Q. Thank you. Okay. So, (whispering in background) bearing in mind the clarifications that Mr. Kindred has provided, the DSP wait – persons in need, people found to be eligible for DSP under the *Social Assistance Act*, my question was that many of those people found, and we're talking about people kind of early on like have – after they've had an approved application for example…

A. Yes.

Q. …they're essentially told you're

approved. You're a person in need. We're going to put you on a waitlist and you said yes, that's right, is – is there now a nuance in light of Mr. Kindred's submissions that the – you would…

A. That's right on the assumption that the option that they are looking for and that is appropriate for them is not available they – the obvious example where that would not be the case would be if people were looking for direct family support, which we call Flex at Home…

Q. Right.

A. …there isn't a waitlist for that.

Q. Okay. I don't know the – is it called service array or menu of programs? Flex at Home is one of what? Five or six, is it, different DSP Programs?

A. Yes.

Q. Okay. That one has no waitlist?

A. That's correct.

Q. Okay. And it's come up earlier in the program (laughing) in an earlier episode, (laughing) the second season, (laughing) that I – as I understand it that this is the only uncapped program. Is that…

A. We recently added the Extended Family

Support of – we've removed the cap on that so the people…

Q. Okay.

A. …are eligible for that they also receive that.

Q. Okay.

THE CHAIR: Sorry. What was that again? Sorry, Ms. Hartwell.

MS. HARTWELL: The extended – Extended Family Support Program which really is just a different funding level within the Flex at Home Program and the Direct Family Support for Children.

BY MR. CALDERHEAD:

Q. Trust me. I won't be pursuing the distinctions between them but of the service array the uncapped program is with the Extended Family…

A. Yes. So Flex at Home, Direct Family Support for Children, and the extended versions of both of those programs…

Q. Are uncapped?

A. …are uncapped.

Q. Okay. The others are capped?

A. Yes. They're based on availability of placements and availability of budget resources.

Q. Okay. So we'll come back to that but I

want to – so say someone's in – interested in a – a, I was going to say supervised apartment, but we'll call it ILS…

A. M-hm.

Q. …and found eligible there's a waitlist for that, right?

A. There is a – yes. I – I believe there can be although we have recently been investing more funding into that so I'm actually not – I – I don't actually know right now what the waitlist would look like.

Q. Okay, but there would be one?

A. Yes. I think the – there could be if the – we don't have the budget resources. If it's late in the year and we've extended the budget for that program, yes, there could be for – for certain.

Q. Okay. In – as so in that scenario, and I'm not you know nailing down as to which – the status of the waitlist, in that scenario someone who's found to be a person in need, and I don't know what you would call it, designated for ILS or on the waitlist for ILS am I right that they're – they're found to be a person in need, they qualify for the program, they're eligible for it but they're – they actually don't get anything. Could

that be true?

A. They would not – if – if there was a waitlist for the program, you're right, they would not be admitted to that program. If they are an Income Assistance client there may be other things – supports through the special needs that we can provide.

Q. Yeah. Okay.

A. So I wouldn't say might not get anything. Care coordinators are very creative in finding ways to support clients but you're correct in saying if the option that they are looking for and the only option – the – the only option that's – that they are appropriate for, you have and the option they're looking for…

Q. Right.

A. …is an ILS placement, there's a possibility they have – they're – they would not be getting DSP Services until that placement is…

Q. Okay.

A. …available.

Q. And on the other hand they might get some IA assistance is I think what you said.

A. If they qualify for Income Assistance they may…

Q. Okay.

A. …get assistance through Income Assistance. Yes.

Q. Okay – okay, but they – in the meantime on the DSP side they'd be on the – on a waitlist. Right?

A. Correct.

Q. Okay. And – and this proceeding has heard a lot of evidence about small option programs that we talked a lot about so say someone interested in ILS, and really ILS doesn't fit for them because they need…

A. M-hm.

Q. …24/7 supports and services, if – if they're found eligible under the moratorium, and even now, many – many people are waitlisted. Correct?

A. Yes. There's a waitlist.

Q. And – and that is to say they've been found to be eligible, they are person in need, and they're put on a waitlist?

A. Correct.

Q. Okay. The – the – and if they're eligible for assistance it would be under the IA Program? Is that correct?

A. Yes, but bearing in mind that there are options available in DSP that could be made available to them. So there might be people who although their preference might be a small option…

Q. Right.

A. …they are willing to explore an option in a developmental residence. They're willing to explore an option in independent living if there's – if we have that opportunity like it's not that we – we would wait. We would – care coordinator would actively work with them and their family to see if there is any other option…

Q. M-hm.

A. …that at least even in a short-term purpose would meet their needs.

Q. Okay, but I mean under the Road Map philosophy of choice if someone's interested in – in a small option and not living in a congregate care facility they're – essentially they're put on hold. Right?

A. Right. That's the entire purpose behind our transformation.

Q. Okay.

A. Is to develop those choice options.

Q. Okay.

A. In a sustainable way. Yes.

Q. The – okay. And under the DSP you'll agree with me that people have often been required to live outside of their community of choice away from loved ones in order to receive assistance?

A. Yes.

Q. And that's unfortunate but it's a reality?

A. Yes.

Q. Okay. And whether that's the RRC in Kings, right, or Yarmouth. For example, one of my clients was only offered assistance in Yarmouth even though her family was here, so that would be an example of DSP Assistance often being provided away from your – your community. Correct?

A. Yes. Where there was a placement option. Yes.

Q. Okay – okay. The – and – and you've clarified that – that in those scenarios someone might be available for some income assistance in certain situations but that – that wouldn't really meet their needs if what they really needed is a small option home?

A. Absolutely. Yes.

Q. Okay. (whispering in background) So – and

there are many people on the waitlist who receive – DSP waitlist who receive no supports at all from DSP. Correct?

A. Yes. I don't have the numbers in my head but there – there is a significant portion that are not receiving any support. There are people who are looking for a different option but there is a proportion of people that are not receiving any support because the support they're looking for is not available.

Q. Okay. (whispering in background) So not available means what? You – you used that term several times. No placement available. Nothing available. What does that refer to?

A. It means that the – so if you're looking to live in a small option there is not a current vacancy in a small option location that people are interested in or it could be that in the programs that are funding-based we, like Independent Living Support, there might be a waitlist until we have more funding available. There maybe other things, and often are, that there's not a correct – there's not a placement that even if there are vacancies it's not a – one that's appropriate so in the sense that, particularly in close living quarters like in

small options, roommates need to be able to have compatibility and of course be able to – you want to like who you live with, particularly again in very close quarters so sometimes finding matches for roommates takes some time and in the Alternative Family Support Program, in particular, that is all about a match because it's a individual who's living with a family that's not their own and they have to really feel comfortable to live in that environment.

Q. Okay. That – I think that program's been referred to kind of as a foster family situation. Is that AFS? Is that the one you mean?

A. Yes. That's the one I mean. Yeah.

Q. It sounds, from your expression, it sounds like you're not happy with that…

A. Well I – I just think foster parenting is a – is a particular – I – I just don't want it to be a – a – it's not meant to be a parental model.

Q. Yeah. So that…

A. Because…

Q. …people to…

A. Right. These are – these are adults who may…

Q. Okay.

A. You know are choosing…

Q. Right.

A. …to live in a place where the supports are offered by a family rather than a paid service provider.

Q. Okay. So that's the Alternative Family Support and – and just ballparking how many of those exist in Nova Scotia?

A. Oh my goodness. I really am going to get the number wrong. I have – I'd have to refer…

Q. Yeah.

A. It's – it's a small number because as you can imagine it requires incredibly dedicated families…

Q. Right.

A. …who are a match in terms of temperament, personality, and interests.

Q. Okay.

A. So I can go look at a document on the break but it would not be one of our larger programs.

Q. Okay. I wanted to ask you about some other differences between IA and DSP. It's true isn't it that under the IA Program and – and that currently and historically there's never, or there

isn't, there's never been subject to a cap on the number of cases for example?

A. In – in the ESIA Program? No.

Q. Right. I mean there's no limit?

A. No.

Q. So it – whatever the need is that has to be responded to. They're…

A. Correct.

Q. They're never told there's no more resources. You can't get on IA. Correct?

A. That's correct. Yeah.

Q. Okay. And similarly the budget level that – the other side of that whatever the budget is for IA it can be exceeded or underspent depending upon what the demand is?

A. It – it can be and then we would be subject to a budget review so there are times when – there are times when benefits you know were provided with direction or clarity of benefits, something you know from several years ago, different Government changing some of the regulations around what would be funded under ESI special needs and what wouldn't be funded under…

Q. Right.

A. …special needs. So sometimes there's

direction that changes the parameters…

Q. Right.

A. …of what people are eligible for.

Q. Right.

A. But overall once that eligibility is established there's no budget limit on that.

Q. Right. No one's told we're out of money. You can't be on that.

A. Right.

Q. Okay.

A. Right.

Q. Sorry. When…

A. But it – it – I was going to say there could be a situation where if year after year the budget is exceeding available resources there could be a policy…

Q. Right.

A. …conversation about what are some of the changes…

Q. Right.

A. …that might need to be made.

Q. Okay, but that's a theoretical thing and…

A. That's…

Q. …a policy decision?

A. Absolutely.

Q. Okay. So let me – let me contrast this because you've referred to it a few times with the DSP Program. Okay. And – and in comparing and contrasting IA, DSP it's been explained to at least some of us that in contrast to IA, DSP is actually a capped program. Is that true?

A. Except for the parts that we've already described that are uncapped.

Q. Okay.

A. Yes. The rest are limited by either available resources in terms of placements and the appropriate Human Resources or limited by budgetary concerns.

Q. Okay. So if demand goes up, and keeps going up and up, the IA – the DSP Program with the exception of that one that we talked about is capped. Right?

A. Yes. There are – there are finite resources…

Q. Okay.

A. …that surround that program.

Q. Okay. And that's in contrast to IA which is not finite. It's open-ended if someone – if demand increased by 15-20 percent then it will be assisted. Correct?

A. Yes. I – I think in – in - those all in theory. In reality though, I guess from a macro level, funding for the Income Assistance Program has increased generally. Funding for the DSP Program over the last 10 years has doubled.

Q. Right.

A. So at a micro level, person by person, there – there may – you're right. There's – there's an experience of not – of – of there not being an option but overall…

Q. I'm not sure what you mean by not being an option.

A. So a person may not have – there might not be a placement option or there may not – there maybe a waitlist.

Q. Okay. Because of finite resources?

A. Because – that's right. Because in the budget that year there's not…

Q. Okay.

A. …the resources available.

Q. And that – I guess that's what I'm asking about is there might not be the resources available. In that sense there's a limit, there's a cap, right?

A. Yes. I – I – I guess I'm struggling with

the word cap because…

Q. Well what term do you use?

A. Well when we receive our budget annually we have a you know we have authority to – we have spending authority I guess so we can work within that spending authority but I wouldn't want to leave the impression that overall the DSP Program has remained capped…

Q. No.

A. …because it hasn't overall.

Q. Yeah.

A. The overall programs investment again has – has…

Q. No. And – and…

A. …significantly increased.

Q. And we're very clear on that. When you look at…

A. Okay.

Q. …the charts, the spending over the years, the spending has increased and our understanding is that's largely to do with wages or salaries that are required to be in the DSP Program as opposed to actual capacity.

A. That's correct. Yes.

Q. Okay. So that's a fair way of saying it.

You'll see total costs increasing but that doesn't mean the total capacity. Right?

A. No, but it does affect the amount of funding that's available to…

Q. Okay.

A. …increase capacity.

Q. Okay. So I guess I'm – if for example on the IA side if two or three plants were to close in Nova Scotia you know significant ones you could expect the IA demand to go up and the program would respond accordingly?

A. Yes.

Q. Nobody, either at the person in need level or the managerial level, would be told well we're out of resources for this year?

A. That's correct.

Q. Okay. And so that's in contrast to the DSP where that is very much a reality…

A. That's correct. Yes.

Q. …and that gets expressed as well we need to put you on the waitlist. Right?

A. Yes. That's correct. Yes.

Q. Okay. So I was calling it capped. What – how do you frame it?

A. I think there's a – there's a spending

limit. There's…

Q. Spending…

A. …a budget authority limit.

Q. Okay – okay. For DSP that we don't see on IA?

A. Yes. On an annual level I'm responsible to come within that budget but people have a legislated right of eligibility…

Q. Okay.

A. …under Income Assistance.

Q. Okay. And…

A. So therefore if I overspend, I overspend, I then have the responsibility to try to manage the budget in other ways.

Q. Right, but – but that wouldn't include saying no more people are allowed on IA?

A. That's right. My - I would have to find savings in other places.

Q. Okay.

A. Luckily Income Assistance caseloads have continued to decline and so actually what we've been doing is diverting money from Income Assistance…

Q. Okay.

A. …to meet some of the DSP needs as well.

Q. And I think you said it's lucky – it's fortunate that you've been in that scenario and – and conversely if IA demand goes up, and my understanding it goes up and down essentially as a function of the economy, right? Is that a correct…

A. Yes. I'd say the economy and demographic change. Yes.

Q. Okay. So as people age and…

A. As people age and as – right now we're experiencing a significant number of young people who are struggling to attach to the labour market…

Q. Okay.

A. …in part because of mental health challenges so that's a change in the demographic that we're serving for example so that would be something that would change our you know change what our profile – client profile looks like…

Q. Okay.

A. …and therefore the program expectations.

Q. Okay. Although I take from what you're saying is that that would cause demand to go up for IA?

A. Yes – yes. It could.

Q. Okay.

A. But our overall trend is that it's…

Q. Okay.

A. …continuing to go down.

Q. It's going down?

A. Yeah.

Q. So do I – on that point then am I right in understanding that from a budgetary point of view you're able to not steal from IA but rely on that budget line to assist what would otherwise be a finite level of expenditures for DSP?

A. Yes. I have some authority to be able to move money around but it's subject to the Treasury Board of people.

Q. I see. Let me just ask on – on the budgetary side briefly for DSP am I right that in fact the DSP Program knows what it has to work with on a yearly basis? It's on an annual basis?

A. Yes.

Q. Okay. So you kind of find out at budget time more less what – what the word is?

A. Yes. So we make submissions about – the Department gathers information, makes…

Q. Sure.

A. …submissions about current expenditures, upcoming pressures, initiatives that we'd like to invest in, whatever we like to bring forward. We

look at what's in the Government's – the Minister's mandate letter and what Governments have committed to and then we cost what some of those initiatives might be, we provide it, and then we're given a – a budget and then we're expected to work within that budget. There are occasional mid-year adjustments based on changing…

Q. Okay.

A. …resources but generally speaking, yes, it's a yearly exercise.

Q. Okay. So there's no multi year spending commitment or anything like that?

A. Oh no. They – they do make multi year funding commitments.

Q. Okay.

A. And how that is captured is captured according to the rules of the public sector accounting principles because generally speaking once you announce something it's – it's accrued in that budget year.

Q. Oh. I see.

A. So that's – tends to be why there's not long-term commitments but Governments do make long-term commitments and then it's incumbent on us and our colleagues at finance to plan for commitments

that have been made.

Q. Okay. So I'm trying to square that with what you said a moment or two ago about it's done on an annual basis like you find out what you're working with…

A. Yes.

Q. …in the budget.

A. There's an annual budget. Occasionally that annual budget will say this is year one of an initiative so an example could be Governments' commitment to a poverty reduction strategy announcement of $20,000,000 over four years. We – that would come in our budget then at an amount for year one. That's how that would be annualized.

Q. Okay. And you say that's occasionally so the norm would be one year at a time?

A. Yeah. Most – most of our operational are yearly. It's – it's a larger initiatives or particular changes that tended to have a longer runway.

Q. So DSP is annual from what you were saying?

A. Except for the – yes. Generally but so for example the announcement that there would be funding over two years for…

Q. Right.

A. …small options.

Q. Okay.

A. That would be a multiple year commitment.

Q. Okay, but that kind of two-year thing is an exception. Right? Vis-à-vis DSP.

A. Yes – yes.

Q. Okay. You've mentioned it a couple times like the signal you received two budgets ago in that the moratorium in a way informally was over because two budgets ago there was announcement of – of eight small option homes. Correct?

A. Correct.

Q. And am I right that in fact in the first year it was supposed to be four and four? Am I right?

A. Yes. That was the hope. Yes.

Q. Okay. In fact four weren't opened that year at all. In fact none were opened.

A. I can't recall when the Highland Home was opening. It might have been in the first year or it might have been the beginning of the second. I'm not sure but yes to your point. The – they were not built. The – they were – two of them were awarded and in the sense that we knew where they were going

to go and work began with the local communities to plan and…

Q. Okay.

A. …finalize that.

Q. Okay, but in the concrete terms if we're measuring movement you know in the Road Map sense nothing happened in the first year in terms of opening new homes?

A. That's correct. Yes.

Q. Okay. And – and is it the case that those four were in a sense rolled over into the following year?

A. Yes.

Q. To make a like a – a commitment toward eight…

A. That's correct. Yes.

Q. …and I think you talked about that. That's – is it in the tendering process? Is that…

A. So the – there's the one that's been opened in – in New Glasgow area. The two that are – we're working with families, particularly in the Clare region, it's with the families who are determining where they want to have the small option built. In Isle Madame, where they're converting a – a convent, it's what portion of – I

think they're actually in building conversations…

Q. Mmm.

A. …with engineers and *et cetera*. I know that you're going to be hearing from our Executive Director at some point and he'll be able to give you a bit more detail on where that is and I know that we're – we're planning on meeting with them next week. The others we decided to create a process that we could – is fairly, and in a transparent way, determined how to allocate those small option resources.

Q. Okay. This case is concerned with allegations of discrimination kind of historically but in the hearing now so for that purpose those – those small options that you've been talking about are kind of on the drawing board and more to – more kind of advanced stages of development. Is that a fair thing?

A. Sure. Yes.

Q. They haven't actually opened or been licensed or…

A. No. Except for the one. Yes.

Q. Okay. So let me switch gears here and – and sticking with the core – the core programs but I wanted to ask you a different kind of questions

about a different kind of topic. In the record there are many business – DCS business and accountability reports and there's a whole slew of them. Are you familiar with those – I mean you would be familiar with those documents?

A. Yes.

Q. And – and why are they prepared? If you can explain to the Board.

A. Various – they've changed over time. They are generally – the format of them and the overall purpose is usually defined by the Government of the day so some have a higher reliance on business plan is there way of indicating what – what they want Departments to work on each year. I – it's a more recent phenomenon that some of that detail is included in mandate letters rather than business plans.

Q. Okay. M-hm.

A. But for many years the business plans were really the main way that Governments were able to signal what they wanted each Department to work on. They were meant to you know look similar Department to Department and – and be able to…

Q. Mmm.

A. …show how the work of the Department was

leading to the Government's core strategies…

Q. Okay.

A. …whatever they were. The accountability plan was to report on progress related to the business plans. Occasionally there was some accountability report – reporting on larger strategic initiatives.

Q. Okay.

A. And maybe at a Government wide level than – rather than a Department level but they're meant to be planning and accountability documents.

Q. Okay. And so the accountability am I right in thinking – in general terms they're to report on here's how we've done or here's kind of – that was the business plan, project, or goals and the accountability would be to say well here's what happened. Is that a fair way of saying it?

A. Yes. Generally, and I – I believe that there's varying levels depending on the year and the orientation of the Government, whether there's also a focus on movement towards more strategic outcomes rather than…

Q. Okay.

A. …just a litany…

Q. Okay.

A. …of things that we did. It might be more outcomes focused rather than output.

Q. Okay. So the distinction between outputs and outcomes. This is a – so a longer term. You – you talked about strategic direction. So you're saying the accountability reports is – well a business plan would – may contain longer terms and stuff as well.

A. M-hm. Both may. Yeah.

Q. Oh. Both may. Okay.

A. Both may. Again the format and the depth of them…

Q. Mmm.

A. …tends to be something that is shaped by the Government of the day.

Q. Okay.

A. So I've seen different iterations of them over my…

Q. Okay.

A. …time in Government.

Q. All right. The – and they're – as I've seen them I think it looks like they're signed off by the Minister and the Deputy. Is that…

A. Yes. That's normally the way.

Q. Okay. The term business plan I take it

doesn't fit perfectly with Community Services in terms of it's not really a business, is it?

A. No. And it's meant to be more I think respective of Government business you know like House business and so on but…

Q. Okay.

A. …it – it's – it is meant to really be our plan whether you want to call it a business plan or not. For us…

Q. Okay.

A. …it's our plan.

Q. Okay. And – and who prepares them?

A. Generally it's starts with our Policy Divisions. We would have a strategic policy group, they would start them, and there's usually input from program areas and executive team as well.

Q. Okay. Sounds like a lot of people touch them and have their hands on them in terms of having input.

A. Yes.

Q. Okay.

A. And again depending on the format of them how deep they go…

Q. Okay.

A. …would really dictate how many people are

involved.

Q. Okay. They – I'm – I'm guessing here but I presume that given that they're signed off by the Minister and the Deputy specifically the Deputy would review them carefully?

A. Yes.

Q. Like kind of word for word kind of thing?

A. I don't want to overstate it but yeah. Generally I would pay attention to what's in them.

Q. Okay.

A. Yeah.

Q. All right. Let me ask you to look at – at a – a particular business plan that we shared around last week and I'd like to have made an Exhibit and you'll be given a copy. It's – I think that's a business plan annual accountability book.

A. Okay.

Q. And it will be described as?

COURT REPORTER: Exhibit 70.

EXHIBIT #70, marked and entered, DCS Annual Accountability Report, Fiscal Year 2000 – 2001

BY MR. CALDERHEAD:

Q. 70? It will be Exhibit 70. (whispering in

background) Do you have it there?

A. I do.

Q. Okay. And so it's Exhibit 70. I'll ask you to turn to Page 3 and accountability statements and March 2001 is prepared to the financial measures and – so it looks like it's required by that *Act*. Is that…

A. Yeah. Maybe. Yeah.

Q. Okay. Is that definite in your understanding?

A. No. It's not – it's not in contrast to it. I assume that there's a reason they're asking…

Q. Okay.

A. …us to do accountability every year.

Q. Okay. And so you will see the name for the Minister and the Deputy in that. Correct?

A. Yes.

Q. Okay. Now that – this particular report is from 2000/2001. So am I right that's the fiscal year? Is that…

A. Yes. That's correct.

Q. …the frame work? So up until say the end of March 2001?

A. That's right. Yes.

Q. Am I right that that's the – in fact the

time frame when the IA legislation had been enacted but the program didn't come into place until August I think is what the record shows. Does that accord with your understanding?

A. That sounds reasonable. I wasn't there…

Q. Okay.

A. …at that point so yes. It seems like the right time frame.

Q. Okay. Let – let's start actually by looking at the big picture and I'd ask you to turn to Page 31 which I think it's like three pages from the end or three or four pages from the end.

A. Okay.

Q. When we look at those under the heading financial results…

A. Yes.

Q. I don't know if this is an accounting thing or whatever in terms of this out – we see the – the – I take it those are the expenditures for the Department. Right?

A. Yes - yes. That's what it says.

Q. Okay. So there's – there's provision on – for expenditures for I'm going to say stat or administrative and then you look into the quarter in terms of the big numbers. Those are for the three

core program areas. Correct?

A. Yes.

Q. So the first three or four lines,

"Senior management, corporate service, operational support field offices."

A. Yes.

Q. Okay. Those aren't actual services. That's for the personnel costs or administrative costs that are required to implement those services?

A. Yes. I believe that is the case. Yes.

Q. Okay. You're hesitating. Am I…

A. I – I'm hesitating only because I – I'm not sure what might have been captured under operational support. I – I just – I'm not familiar with how it may have been done in the past…

Q. Okay.

A. …but it – the general description I think is – is – is probably correct.

Q. Okay. And those are – I mean it's hard to call them small numbers but comparatively they're smaller compared to the actual service costs.

Right?

A. That's correct. Yes.

Q. Okay. So SCA, which is the current DSP, 106,000,000. Family and Children's Services, 108, and IA 339 and we're talking millions obviously?

A. Yes.

Q. And then there's an asterisk because it – it then reflects that Housing Services has come on within the Department and that's…

A. Yes.

Q. Looks like part way through that fiscal year. It might be as helpful or more helpful to look at a kind of graphic expression of that on Page 34 and 35.

A. Yes.

Q. Kind of pie chart. Right?

A. Yes.

Q. And what would that be? Maybe it'd be easier for you to explain what does that show in terms of your familiarity with these kind of documents?

A. This looks like it a – just a graphic pie chart depiction that puts the more corporative administrative categories together and then defines the spending – program spending by you know again

by each program showing, yeah, the three main areas of the Department of Community Services and then at that time Housing Services would have been the fourth and was just…

Q. Okay.

A. …newly joined so it…

Q. It appears to be, in proportional terms, it appears to be CSA is 20 or 21 percent of the – of the pie?

A. Yes.

Q. Okay.

A. Yes.

Q. What's FCS?

A. That would have been Family Community Supports I think the name of the division at that time.

Q. Or Family and Children's Services?

A. Yeah. I – yeah. Maybe. Family and Children's Services. One of…

Q. Okay.

A. One of those titles.

Q. All right. And that's – looks like just over 19 percent?

A. Yes.

Q. And the big slice of the pie would be it

looks like Income Employment Support?

A. Yes.

Q. And that's how much?

A. It looks like that's 53.9 percent.

Q. Okay. The – and so on the next page, that is to say Page 35…

A. Oh. Sorry. I was looking at the wrong page. I was looking at Page 35.

Q. Okay. I think the distinct – is the distinction between the two, one is estimates and the other is expenditures? Would that be fair when you look…

A. Yes. We – yes. We generally divide things into estimated and actual…

Q. Actual. Okay. So it's actually easier visually to stick on Page 35. So those are the proportions and it's looking like in terms of the – the CSA share of the pie it's about 20 percent?

A. Yes.

Q. Is that fair?

A. Yeah.

Q. And that's – that's more less the case whether it's expenditures or estimates. Right? In terms of how much proportion goes to community support?

A. I'm sorry. I'm distracted by the fact that the numbers – I – I'm just trying to understand the numbers that on one chart it would show CSA – sorry. The first chart it would show CSIA – CSIA – CSA at 20.8 percent but the expenditure at 121,000,000.4…

Q. Right.

A. …versus the other chart. Maybe this is the point you're trying to get to. The other chart that shows the estimate at a higher amount but at a lower percentage.

Q. Oh…

A. So I'm – I'm just trying to reconcile that in…

Q. Oh. Why it – it would seem – seems off?

A. Why one would be higher…

Q. Yeah. Okay.

A. On one chart it shows it as being higher and the other chart it shows it being lower.

Q. Mmm.

A. I'm just trying to make sense of the numbers.

Q. I have to tell you I don't know the answer to that.

MR. KINDRED: It's – I – it does seem like it

covers different fiscal years. One's an actual and one's an estimate from…

MR. CALDERHEAD: Yeah. That part we…

MS. HARTWELL: Oh yes. It could be 2001/2002. You're – you're right. So these aren't – so these are not actually – you're not comparing apples and apples. You're comparing…

MR. CALDERHEAD: Okay.

MS. HARTWELL: …apples and oranges.

BY MR. CALDERHEAD:

Q. Okay. So it's a different – one is 2001/2002…

A. Yes. They are. Yeah. And then (whispering in background) the – the 2000 – the 2000/2001 is actual versus 2001/2002 estimates.

Q. Okay.

A. Which then would explain why the number would be higher.

Q. Okay.

A. Because they would have increased the budget to deal with the fact – recognize the fact that the actual expenditure had been higher the year before.

Q. Okay. I think we've resolved that. The – but you'll agree with me for that expenditure, the

actual for 2000/2001, and looking forward the estimates for the following year they're again in the area of 20 percent of – of expenditures are for community supports?

A. Yes.

Q. Okay.

A. That's what it looks like.

Q. And – and there's also reference to Housing Services there and looking at Page 35 it comes in at just over two percent.

A. Yeah.

Q. So it's in very – in very simple terms it's kind of the – the small brother – the small player within these service areas at two percent?

A. Yes.

Q. Okay.

A. Yes.

Q. You're again hesitating. Is…

A. Because you know you had drawn my attention to the asterisk on the – Page 31 so I – I – just the number…

Q. Oh.

A. …13,000,000 we – it was based on an assumption that came in part year so…

Q. Yeah.

A. …then I'm wondering why the estimate for the year coming up would only have included that – was that amount true – amount truly…

Q. Okay.

A. …a prorated amount or was it actually the larger amount. I wasn't around so I don't know but again…

Q. Okay.

A. …it just – if - someone reviewing this I would wonder why that was the case.

Q. Okay. So I – I'm going to ask you to turn then to Page 6 of the report.

A. Okay.

Q. Under the heading you'll see,

"Impact on Government restructuring."

So there's a reference there to Housing having come on…

A. Yes.

Q. …as part of the Department and I'm going to ask you to read the second sentence in that paragraph.

A. Yes,

"Over 90 percent of the Department Services are legislated and under these *Acts* the Department is required to provide services for those individuals and families who are eligible for assistance regardless of available funding."

Q. Okay. Program – available program funding?

A. Yes. Available program funding.

Q. Okay. And – and my question then is you'll agree with me that references to the over 90 percent is a reference to Child Welfare, ESIA, and CSA. Correct?

A. Presumably. Yes.

Q. Okay. I mean that – in terms of the proportion of the pie they would occupy over 90 percent, those three core areas, correct?

A. Yes. I…

Q. Are…

A. I don't know what they meant by – I guess the Department services are legislated. We just went through a conversation where it was identified

that some of the DSP services are not legislated so I'm not sure – I'm not sure. If I was the writer of that I would have included them but nonetheless yes. I agree those things add up to 90 percent on – from the pie.

Q. Okay. Yeah. I mean included within the 90 percent is CSA, IA, and Family and Children's Services?

A. Presumably that would – that's what they meant otherwise it wouldn't add up to 90.

Q. Exactly. That's my point. I'm switching topics and thank you for your explanation for these reports. I want to switch topic to the suggestion that has come up in these proceedings and elsewhere but in these proceedings for sure about – and you – know that you've heard about it as well. It's a suggestion that the DSP and its predecessor, CSA, SPD, are a voluntary program and I wanted to ask you just for clarification about that because there's certainly been some confusion at least on our part and – have you heard of that before? That suggestion…

A. Yes. I've heard that term used to describe some of the programs.

Q. Okay. Voluntary program. And – and in

particular the Province's submissions to the Board in this case, at Paragraph 23 of the submissions, say,

> "As noted by the Complainants where the Province provides supportive housing. It also does so on a voluntary basis."

And – and there's confusion, a little bit at least on our end, about what that means but am I right in thinking when you've heard about the DSP as a voluntary program that means nobody has to apply for it?

A. Correct. Yes.

Q. All right. And no one's forced to apply for DSP?

A. That's correct. Yes.

Q. And is that your understanding what voluntary means?

A. I – I think that's – that would describe the use of voluntary in this setting. Yeah.

Q. That's how you understand it when you've heard it?

A. Yes. I hesitate only because the use of

voluntary assumes that some others – other options.

Q. Right.

A. So I think it's true in that it is absolutely true in the technical sense of the word and there are situations where we provide options to people and they don't like them.

Q. Right.

A. So again back to that's why we're looking to change the system is to be…

Q. Right.

A. …able to have…

Q. Okay.

A. …a menu of options that people actually want to choose.

Q. Okay. I take it from your evidence just now that in theory someone who's in – a person in need, need of IA for example, they have an option whether to apply for it?

A. They do.

Q. Although that in a sense is a theoretical suggestion because one option is to and they have no other resources simply to starve. Correct?

A. There are people who choose not to go on IA. They choose to take other actions.

Q. Right.

A. That…

Q. But if they're – in terms of people in need…

A. That's right. I would say they – that IA is often seen as the program of absolute last resort.

Q. Okay. So DSP is a voluntary program as – as you've said you've heard it referred to only in the sense that IA is a voluntary program. Applying for EI is a voluntary program…

A. Right.

Q. …in terms of any legislative benefit when you think about it and voluntarily decide whether or not to apply for it?

A. That's correct. Yeah.

Q. That's the sense in which you understand it?

A. Yes.

Q. Okay. There's no other sense in which it's voluntary? I mean there's no other – because there's been some confusion in the past over what that means but I take it that's what you understand by it?

MR. KINDRED: If I could – if – if my friend is trying to nail down an interpretation of a

statement made in our legal submissions that this witness didn't…

MR. CALDERHEAD: I'm not actually.

MR. KINDRED: Oh.

MR. CALDERHEAD: I'm asking the witness for her understanding of what it means.

MR. KINDRED: Okay. That – that maybe very different from what was intended by when…

THE CHAIR: Okay.

MR. KINDRED: When we wrote that in submissions…

MR. CALDERHEAD: Yeah.

MR. KINDRED: …but if that's the…

THE CHAIR: But I mean I understand and I – I – you might re-ask because I'm not sure that I'm getting it. The question was, I understand Ms. Hartwell, yourself to have thought of or described some programs as being voluntary and I understood Mr. Calderhead to be asking so what's voluntary and I confess I'm not quite getting it. Are you saying that IA is voluntary?

MS. HARTWELL: Well I'm saying that – I guess I don't want to get into a – a semantics piece in a sense that there's no – we are not going to go an knock on people's doors and force them to fill out

forms.

THE CHAIR: Oh. I appreciate that and – and there are many – many…

MS. HARTWELL: Right.

THE CHAIR: Many people who – who would starve before they'd go on IA. I mean I'm - not quite literally but that…

MS. HARTWELL: No. There are people who…

THE CHAIR: …would be the way they'd feel about it you know.

MS. HARTWELL: That's right. There are absolutely people who do not want to be receiving IA and they make different choices but I guess the real – I – I – I don't want to be blind to the reality that if there are not other – for most…

THE CHAIR: Oh.

MS. HARTWELL: …people…

THE CHAIR: So what's involuntary then?

MS. HARTWELL: Yeah. Involuntary in my view would be if we were forcing or requiring it. So if we had a system that simply looked at people's income tax return and said based on the Federal Income Tax Return you've filed we have decided you are going to be receiving Income Assistance cheques and we're going to mail them to you. That would be

involuntary. People would not have volunteered for that. We could have all kinds of interesting conversation about whether they did so as you know filling out their income tax returns or not but by enlarge – but generally speaking it's calling something – saying that something is voluntary and then when you ask me what's the option other than it? It doesn't always feel very voluntary to the people who are in the situation so it feels like it's you know…

MR. CALDERHEAD: Right.

MS. HARTWELL: It's a little bit of semantics word play but the – for me there's I'm quite clear that ultimately people get – this is all about people getting to choose what services they want.

BY MR. CALDERHEAD:

Q. Okay. There's no legislative requirement for anyone to apply?

A. No.

Q. And in that sense it's voluntary?

A. In that sense it's voluntary. Yes.

Q. Okay.

THE CHAIR: Okay. Thanks.

BY MR. CALDERHEAD:

Q. Okay. Thank you for that. (whispering in

background) Let me ask about another part of your area and you've already cautioned that Housing in a sense is a little bit separate, a little bit independent, but nonetheless you have supervisory responsibility. Is that correct?

A. Yes.

Q. Okay.

A. That's correct.

Q. Okay. And – and familiarity with it and how it…

A. Yes.

Q. How it works and…

A. Yes.

Q. …presumably it's incumbent on you to be briefed the mechanics of public housing and housing services?

A. Yes. Issues that arise are brought to me and I'm kept – the progress towards some of the things that we're working on. I'm kept in the loop on that. Again the mechanics would not…

Q. Right.

A. I would not necessarily be in the mechanics…

Q. Right.

A. …of repairs or upgrades or…

Q. But you would have a policy appreciation or programmatic appreciation?

A. Yes.

Q. Okay.

A. Yes.

Q. Okay. Then flipping back to DSP for a moment I thought I understood your evidence yesterday to be something to the – like talking about the supports and services that DSP clients/participants receive I thought I understood your evidence was saying that the supports tend to be more challenging than the actual housing part of it. Is that – is that right? Is that what you said or…

A. Yeah. I did say something along those lines and I guess in my experience what I've observed is that, not always, but often we are able to locate a physical – physical location or we're able – and presumably construct them. That is often a significant outlay at the beginning and then the nominal costs of keeping the physical infrastructure going. What actually ends up costing more money and what ends up often being an obstacle in terms of finding people have the correct skill set are the Human Resources required to provide

support and care.

Q. Okay. The staffing?

A. The staffing.

Q. Okay. So there's – I think I hear you drawing a distinction between the start up costs and then…

A. Yes.

Q. …kind of going forward the operational costs are predominantly for?

A. Predominantly for staffing.

Q. Staffing. People who provide supports and services?

A. That's correct.

Q. My understanding, I think in part from the documents and – and what witnesses have said, that the staffing side of it, and if that's the right term, maybe something like 85 or 90 percent of the – when you break down how much it costs to support a person. That maybe something 85 to 90 percent of the total cost is for staffing?

A. It would significant. Yes. I don't know if those are the numbers but I have no reason to doubt them though it is…

Q. Okay.

A. …the most significant by far.

Q. Okay. I'm – and – and just backing up a little bit. It's come up in the evidence about opening small option homes and creating ones and building ones. Am I right that primarily when small option homes are opened they're not actually built brand new. They – they're typically bought or purchased. Right?

A. Yes. I – I think…

Q. Or – or rented?

A. Yes. I – I think that is the norm but there have been cases where they're been purpose built…

Q. Okay.

A. …small options.

Q. Or disability related accommodation or anything…

A. Yes. I'm thinking of some in particular that had be built a particular way.

Q. Mmm.

A. Because of the complexity of that particular client's needs. In this particular case the person I'm thinking would eat dirt, the drywall, and so…

Q. Oh.

A. …the – the walls had to be constructed of

different material.

Q. Okay – okay.

A. And so on and so some different things.

Q. Right.

A. Part of our go forward though is – one of the things that we've observed is that not all of the small option buildings that have been selected have longevity you know…

Q. Okay.

A. …sometimes they're older homes…

Q. Right.

A. …and it might actually be better to purpose build exactly what it is that we need with all of…

Q. Okay.

A. Particularly with accessibility and visibility standards in mind.

Q. Okay. And that's, I think you said, is down the road. It's kind of your plan or possible plan?

A. Well that's – that's the work that we just – that's the proposal process that we're just in the middle of…

Q. Okay.

A. …that we – our plan is to start working

on those this fall with them open by the spring.

Q. All right. Okay. Those cases primarily concerned with what exists and what has existed…

A. Yes.

Q. …and – and you'll agree with me that every time a small option home has been provided the norm hasn't been that it has to be built from scratch. It can be simply a purchase or rented home?

A. That's correct. Yes.

Q. Okay. This – I just wanted to be clear about that and on this idea of the bulk of what happens for DSP is actually for the supports and services unless about the housing. I know that the Road Map – Road Map addresses that a little bit and I'm going to ask you briefly, and – and we may not need to spend much time on it, are – so I'm just looking for the Road Map here in the Exhibits. (whispering in background) And really I'm just interested in the – there's some passages in the Road Map about what supportive living is and what it's not. Does that ring a bell to you?

A. Yes.

Q. I'm not asking you to do my work here but…

A. No. Yes. I've had some conversations

about that.

Q. Yeah. And – and so essentially that – and we don't need to get down to – to say that someone is seeking or needs supportive living that's primarily of what's in order thing, is it?

A. No.

Q. What – what is it about?

A. It's about how having the right supports in terms of staffing and that can be staffing that is specific to help with all of the activities of daily living or it could be programming such as employment or recreation or any other number of things that people might need. Foot care.

Q. Yes.

A. Bathing. All you know all – anything that might happen.

Q. So it – it's primarily about the supports and services and not really about the housing?

A. That's right.

Q. Okay. I'd like to take you back on this point – yeah. I'm – I'm just looking at the Road Map on Page 9. (whispering in background) Okay. On – on Page 12 of the Road Map, it's Page 2,871 of the joint book, you'll see a reference to individualized funding mechanism.

A. That's right.

Q. And it's hid under heading, "The issue," there's a reference to,

"With funding largely attached with bricks and mortar rather than to people."

And this was about kind of a critique of the old system I think.

A. Yes.

Q.

"Social and economic inclusion is thwarted more than it would be the case. The consequence is lost opportunity for the innovations."

And so on. So that's a reference to the older approach of – of kind of a preoccupation with the bricks and mortar as opposed to what the person needs?

A. Yes.

Q. Isn't that right? Essentially.

A. Yes.

Q. Okay – okay. So let me ask you to go back to that – the table we've looked at and I think it's Book 3. Tab 17. This, just for the Board's appreciation, this is the chart and for ease of reference let's look at the most recent fiscal year that's shown. I guess it's Page 2 of the chart.

A. Okay.

Q. All right. The numbers on the – that column essentially are a break down of who is where. Would you agree with me in terms of a disaggregation of the caseloads so to speak?

A. Sure. Yeah.

Q. Okay. So the total is 5,197. Do you see that in the kind of…

A. Yes. I do.

Q. …right-hand corner and I think the other day, or yesterday, you were saying it's kind of 5,400 at this point? The…

A. Yes. That's the last number that I saw. Yes.

Q. Yeah. Okay. So the – when we – when we go back to the top and it – under the – the rows or had a type of facility then you have your RCF's, ARC's, group homes, RRC's and small options and so on and then you have, I don't know what the lower

half would be called, but Alternate Family Support, ILS, DF - and you get into all the sub settings there with the…

A. Yes.

Q. …various programs. So in terms of big numbers like the biggest numbers Flex individualized funding seems to be – have the largest single one at 1,300.

A. Yes.

Q. Okay. And then you also see some big numbers for DFS, ILS, and so on and these – these – for example ILS (the old supervised apartments) am I right that those should be understood as apartments that kind of people have sought out, obtained, and they're kind of operating on their own with supports?

A. No.

Q. Okay.

A. The Independent Living Support Program is generally that we are contracting with a service provider to provide that apartment…

Q. Okay.

A. …to an individual. So there maybe exceptions in there. I'm not you know that I – it's a client that sought out the location themselves.

I don't – that maybe the case but generally speaking we enter into agreements with…

Q. Okay.

A. …providers to provide independent living supports for people who are living in that situation.

Q. So in that setting the landlord so to speak would be the service provider? Is…

A. Correct.

Q. If I'm…

A. Yeah.

Q. I'm understanding you correctly.

A. Yeah. Don't know the actual who signs the contract…

Q. Right.

A. …but I'm assuming it's the service provider.

Q. Okay.

A. And that we have contracted with the service provider to…

Q. Okay.

A. …precure that apartment for that location. Yeah.

Q. But – and it's hard to know the break down obviously from this but there would also be

many people who've – who've actually obtained their own apartment and have supports coming in?

A. Yes. They – they would – I would say that the creation of the Flex Independent Program was specifically to accommodate situations where there's someone who is choosing where they want to live and choosing who is providing the supports and they are doing the contracting…

Q. Right.

A. …themselves directly as opposed to – to us doing the contracting.

Q. Okay. So that's the 1,300 one is it?

A. No. That would be pre – that would be after these dates. Sorry. It would be – this is '16/17.

Q. Oh. Okay.

A. So Flex Independent would be something that's become after that.

Q. Okay.

A. But again I'm – I'm leaving room that there may have been. I – particularly because some of these supervised apartments things are outside of the – are – are predating some of the things that I'm more familiar with. They may have been ones that arose because someone knew they – where

they wanted to live and had a relationship with the landlord and they were part of choosing the location.

Q. Right.

A. That certainly could happen.

Q. Okay. So that's – so if ILS/supervised apartments is kind of a mixed thing between service provider, I'm going to call them landlords, and – and participants who've actually obtained their own housing. Let's move down to DFS and that one has 665 participants and I guess 11 children in the line below. It's a bit of a mixed bag it looks like in those ones. What are those situations? Are they – those are people living in the family home? Is that like in terms of what we're talking about here.

A. Yes. The Direct Family Support Program is generally where people living – were people living with family members, often parents but occasionally siblings or…

Q. Okay.

A. …other family members.

Q. Okay. In their home?

A. In their home.

Q. And whether it's purchased or whether – it doesn't really matter.

A. That's right.

Q. Okay. Enhanced Family Support, 11 people, I'm not sure what that is but would that be the same as assistance being provided in a family home?

A. Yes. The Enhanced Family Support is essentially the same as the Direct Family Support but with higher levels of funding to meet particularly – particular needs.

Q. Okay. So I guess stepping back, and it looks like it's the lower half of those, are…

A. Oh. Sorry. And I have to correct as I'm looking down I – I was incorrect. Flex Independent is listed here but I'm not…

Q. Right.

A. Yes.

Q. Yeah. Well it's the big one with 1,300. Sorry? (whispering in background) Oh yeah – yeah. It – one says independent. The other says in-home.

A. Yes. Yeah. And given the year, '16/17, I actually think those numbers should be flipped.

Q. Oh.

A. I think in-home is 1,301.

Q. Okay.

A. And independent at that time, which was brand-new, would have been just seven.

Q. Okay. It – because it had just started is it?

A. Yeah.

Q. Okay.

A. Yeah.

Q. All right. So as we look at it, and – and the numbers will crunch as they do in light of your evidence, I guess what I'd put to you as I look back, step away and look back, a very high proportion of the DSP participants actually are living in situations, and I think this is consistent with your evidence, that aren't created or operated by the Department. From primarily families or independent.

A. Correct. Yes.

Q. Okay. So a very significant portion of the DSP caseload, if I can call it that, is actually nothing to do with housing at all even private housing.

A. That's – yes. That's correct.

Q. Okay. And those situations you're providing other supports obviously to parents and to the individual themselves but the housing part of it has been something they take care of?

A. Of – yes – yes.

Q. Okay.

A. For the majority of people who are in our program they are living in community-based options and community-based options generally are – we are not providing the housing. Yes.

Q. Okay – okay. Yeah. I guess that's one of my – the…

A. The only caveat to that of course would be small options where we are providing the housing.

Q. Okay. And just on that it's actually not DCS. It's service providers, typically?

A. Right. That's the – we don't provide housing in any situation. We – we always use a service provider.

Q. Okay.

A. There's – there aren't DCS run facilities.

Q. Okay. All right. Maybe we'll just pick up on – on your last point about the Province's involvement in – in – in the DSP settings whether it's in institutions, facilities, small options and so on. I'm wondering about the – the nature of the Province's involvement and it seems to me that it's both financial, very significantly financial, and

also regulatory.

A. Yes.

Q. Is that right?

A. Yes. I would – I would add a third.

Q. Okay.

A. I think it is financial. It is regulatory through our licensing scheme.

Q. Yeah.

A. And I would say that there's a responsibility in terms of programming standards that we are moving forward on that. So there was something about making sure that not just people are meeting the bear minimum of licensing…

Q. Right.

A. …that people are actually providing programming including things set out in the Road Map. I mean that's how I'm reading - some of the direction the Road Map is that we want to have strong programs…

Q. Right.

A. …and plans that our service providers would be part of.

Q. Okay. And that's something going forward? Is that the point?

A. Yes, but that was – that was one of the

recommendations of the Road Map. We have that a varying – various places depending on you know we would have some standards of programming or standards – guidelines we would want to make sure that people are adhering to but not necessarily written program guidelines…

Q. Okay.

A. …that would say this what – this is what a good program looks like…

Q. Right.

A. …versus what something that you know we might not want to fund.

Q. Okay. So it's – in a way I'm hearing it as the distinction between minimum standards of acceptability and proper substantive programs…

A. Yeah. It – it's – for me licensing is about people being safe…

Q. Right.

A. …and – but licensing is often about the physical – again the physical location and to some extent the – the interactions are between clients and some of their care providers but isn't necessarily about quality of life as it relates to the types of programs people are attending. The types of recreational opportunities they have.

There's – those are the things that we know make such a difference and those are the things that based on the Road Map we want to make sure that we're setting some standards around those as well.

Q. And just so I understand it that's the third kind of nature of the involvement…

A. Yes.

Q. …by the Province? So there's the very significant financial, there's the licencing, and going forward more – what did you call it? The…

A. I would – I – I think setting some program standards. I…

Q. Okay.

A. …really playing the – I think the leadership role that one of the documents you referred to is…

Q. Right.

A. …that we have a responsibility to have a leadership role in…

Q. Okay.

A. In ensuring that people are receiving good quality.

Q. Right. You mentioned quality standards and – and I failed to bring it up earlier but you'll agree that in the case of a small options there's

something called the interim standards that the Board has before it and they've been in place since 1996 actually. Correct?

A. Yes. I believe so. A long time.

Q. And am I also correct that in fact they're still in place?

A. Yes. I believe so.

Q. Okay.

A. We're – yes. And again part of our work as we are – have the opportunity to rollout new small options is to create and have a renewed conversation about what does small option living look like and what should it look…

Q. Right.

A. …like based on what clients have been telling us.

Q. So that's the third…

A. Yes.

Q. …leg of what you're talking about but the reality is that small options have been subject to standards, interim standards, that are now, whatever, 22 years old or something since 1996. Correct? Even though they were unlicensed.

A. Yes. I mean I – I – I can't verify the date but yes. I know that there were some interim

standards in place. Yes.

Q. And – and since, I think it's 2010, small options have actually also been licensed under the *Homes for Special Care Act*?

A. Yes.

Q. And – and subject to the requirements of that legislation?

A. Yes. That's correct.

Q. Okay. Mr. Thompson, I'm – I think I'm very close to being done but I do want to take just a few minutes and I'm wondering whether this might be a good time to break?

THE CHAIR: Sure. Yeah.

MR. CALDERHEAD: Yeah.

THE CHAIR: It's 12:00…

MR. CALDERHEAD: But I'm – I'm…

THE CHAIR: 12:30.

MR. CALDERHEAD: …very close to being done I think.

THE CHAIR: Yeah. Well 12:30's good. Yeah. Thanks.

[RECESS 12:28 P.M. – 1:47 P.M.]

BY MR. CALDERHEAD:

Q. All right. Good afternoon, Ms. Hartwell.

A. Hello.

Q. I – I really only – only have a few questions left. I think predominantly arising from evidence you gave yesterday in a kind of short snapper thing. At one point yesterday you were talking about the experience of closing the Children's Training Centres and I think what you said was that you don't know, it was well before your time, but you'd had a few conversations and you heard from some people that it was chaotic or – I think that was the term but maybe it wasn't.

A. I – I don't recall which word I used but I think it was perhaps not as straight forward as people might have thought.

Q. Okay. And were those conversations with DCS employees?

A. Yes.

Q. Okay. You're – you'd – you didn't hear from the perspective of parents or children?

A. No. I may have had a conversation with a service provider or two about it. I'm just trying to recall. It came up at the Road Map hearings. I don't recall so I – I would say yes. It would largely be staff and not clients and their

families.

Q. Did you have awareness – or what awareness did you have, if any, that the closure of the Children's Training Centre was intended to be part of a broader agenda of the deinstitutionalization more generally?

A. I have – I have a vague awareness that there were other rehabilitation centres that had – there were other – there was a rehabilitation centre that had been closed and maybe some other ARC level of care that were closed and so I believe there was a – a sense, a – a understanding, that as evidenced by the many reports that people wanted to move to a more community-based setting but I – I - I'm not aware that there was an actual concrete deinstitutionalization plan that was being systematically carried out.

Q. Okay. Although you'll agree with me that the successful closure of - I don't know how many it was. Four or five Children's Training Centres provincewide, if I've got the number right, provided important experience for the Province in deinstitutionalization?

A. Yes.

Q. Okay. Switching just briefly to the Road

Map, this morning we looked at as you'll recall, a variety of historical reports from '84, '89, '95, about, I think you used the word inclusion, the importance of inclusion and so on and in the course of your evidence you drew a distinction between, again was it between a policy or a commitment or a – you were saying you have to understand that some of these were policies or some of these were aspiration or…

A. I…

Q. Do you recall your evidence?

A. I do. What I was referring to is that the documents that we were going through were recommendations or policy statements and I was putting that in the context of your question about my testimony yesterday where I said that the commitment to close – the current commitment to close larger facilities was the first time that Government had stated definitively and backed it up with resources and a – and an approach and then as I was going through I was you know you were making me aware that of – of - while people have talked about it for a long time…

Q. Mmm.

A. …they have not definitively made a

statement that they – it will happen and given a timeline. That was my understanding.

Q. Right. And the Road Map doesn't do that either, does it?

A. No. The Road Map uses the language that we referred to, the reduced reliance on – talks about time frames. It's since then that through various statements, including where we've been able to secure additional funding, that we've been able to say definitively we will be ending reliance on larger facilities.

Q. And then it – okay. I missed that. And ending it when?

A. This – as I said I talked about we're in a process…

Q. Okay.

A. …of doing that so…

Q. Okay – okay. In answer to questions from Mr. Kindred at one point I heard you say, or my notes have it that you at one point described the Road Map as aspirational, which I – I think you said you have to understand that there was an important aspirational component, i.e., a hope as opposed to something else. Do you recall saying that?

A. Yes – yes. It was my – when I talked yesterday about the decision to really consider it a Road Map and that particular choice being that we know that we haven't agreed upon destination and the ways to get that destination, many of which are outlined in the Road Map, it was important to have an aspirational tone, an aspirational context, because we wanted to ensure the people understood the desire that this was a priority and that we could move quickly.

Q. Right.

A. That didn't mean that you know the fact is I was Co-chair of the committee. There were other Government representatives on the committee. By our inclusion in that and by our – and then by the report that Government responded to after, Government affirmed, yes, we've accepted the Road Map document. So it – it wasn't as if it only remained an aspiration, but it was important to strive not just for something that was doing what had happened in the past which might have been describing the problem, but with great completeness. We wanted to actually have ways forward so that we could action how to address some of the problems.

Q. Okay. You said a moment ago that a Government has embraced the Road Map, or adopted it, I think?

A. Yes.

Q. And – and yet you described it, the document itself, as aspirational and I guess what I'm saying is describing – you described it as aspirational but you've also described it as a commitment so I guess I'm left wondering which is it?

A. I'm – I'm not using the word aspirational to mean – perhaps I'm incorrectly using the word and maybe meaning inspirational. This certainly wasn't a – an intent for it to be something that we could all – I was describing the brighter future that we actually agree on. The aspirational part is that there were things that we were going to be trying that had not been tried…

Q. Mmm.

A. …with the level of detail that we were planning on doing and so our aspiration was around, although we were saying we want to create you know we want to end reliance on larger facilities, or have - you know within five years do that. I certainly understood that while we could aspire to

do that it was going to depend on a number of factors including readiness of individuals to move and most importantly the ability to ensure a network and structure of supports so that they could move. So it was aspirational in the sense that we – until we actually got started doing the heavy lifting we weren't – we couldn't with certainty guarantee exactly what the path would look like.

Q. Okay. You – you've – you've gone back to those two points about individual hesitation if – that's one and the other was institution – capacity limitations. Is that your second limitation on implementation of the Road Map that you mentioned just now?

A. No. What I meant was that in order for people to be able – so people who are currently living in larger facilities and receiving the complex mix of supports…

Q. Right.

A. …they're receiving in community there has to be determination about how to deliver those same or improved supports in community.

Q. Right.

A. And so how to deliver that without that

place based or that locus of where it – supports are being provided means that we have to be using either community-based or outreach based or all of those pieces and so designing that is really the – the larger task…

Q. Right.

A. …that can happen at the same time as individuals are part of their preparation…

Q. Right.

A. …to move to that.

Q. Okay. In light of your evidence particularly around the limited funding, annual limits on funding for DSP, you'll agree with me that in – an important third component is also Government making the available resources?

A. Yes.

Q. Okay. Ms. Hartwell, those are my questions and Mr. Chair, I'm – I'm done.

[END OF EXAMINATION BY VINCENT CALDERHEAD AT 1:57 P.M.]

THE CHAIR: Ms. McNeil?

EXAMINATION BY CLAIRE MCNEIL BEGINS

BY MS. MCNEIL:

Q. Yes. Good afternoon, Ms. Hartwell.

A. Good afternoon.

Q. So at this end of the table we're representing the Disability Rights Coalition in this matter. I have a few questions for you this afternoon so bear with me I see my notes are not as straight forward as I'd like. So you've presented us with your CV and I just wanted to review your background especially in the 2000's. You've indicated, and I think it was in 2004, that you were, I think you said, you were brought over by the Deputy Minister of – to – from Justice to Community Services and to – to help her with the renewal initiative. That you were the policy person on the renewal initiative. Is that right?

A. Yes. That's what I – that's what I ended up being assigned to work on. I actually went over to work some – she – she wanted to be able to work on some strategic planning for the Department, generally, and then by the time I got there she – she identified that there was a real need to have someone who had maybe a different perspective to

help lead a team to move forward in a strategic way on some of these pieces.

Q. Okay. And what was happening then if we can just, for the record, clarify that that was then the Community Supports for Adults which was the – the companion – the same program as what's now known as the Disability Supports Program?

A. Yes. That's correct.

Q. And it was their renewal process that you were tasked with. You're saying you were leading that process, were you?

A. Yes.

Q. And that it was – and – and you were reporting directly to the Deputy Minister with respect to that?

A. Yes.

Q. And you'll recall that there were quite extensive requests to community at that point to submit presentations and – and input onto what that reform - can we call – renewal was implied that the – that there was a recognition by Government that that Community Supports for Adults Programs needed to be reformed?

A. Yes.

Q. Yeah.

A. And – and I would say that that work started before I arrived and continued after I arrived.

Q. Okay. And so I just wanted to direct you to a – a document and I don't know that it's in front of you so maybe I can just quickly give it to you. It's right behind you here. (talking in background) So you'll see there that's…

MR. CALDERHEAD: Which book? Sorry.

BY MS. MCNEIL:

Q. I'm sorry. It's in the book called disputed and it's Tab – Tab – is it Tab 2 there that I referenced you to? I think it is. (whispering in background) Now I can't find my copy of it but that's all right. So it's identified as being from Louise Bradley to (talking in background) the Renewal Committee, members of the Renewal Committee, do you see that there at the very…

A. Yes. I do.

Q. Very front page and it – it's on the Capital Health letterhead.

A. Yes.

Q. And – and I'm not sure if you're aware that this – this Board of Inquiry has heard Ms. Bradley in the course of this proceeding. You'll

see at the top it's cc'd to, well there's penciled in, Judith Ferguson, so that's the Deputy Minister that you've just identified or is the person that you reported to on the renewal? (whispering in background)

A. No. Judith, I – the person at that point I think would have been Associate Deputy Minister, and…

Q. Oh. So it's…

A. …Marian Tyson would have been Deputy. (whispering in background)

Q. Oh. Okay. So – and so this is from 2003, this presentation, is this something that – that – first of all are you – have you seen this document before or you – or can you say? I know it's many – many years ago but would this have been one of the presentations that you looked at in the course of your committee's work on the renewal process?

A. I – it doesn't ring a bell. It slightly predates my coming to the Department and – yeah. So I – it doesn't…

Q. Okay.

A. …look familiar. I haven't seen it. I don't recall seeing it before.

Q. Okay, but those individuals identified at

the top of the page are all Department of Community Services – were then Department of Community Services employees? Judith Ferguson, you've identified as the Assistant Deputy Minister?

A. Yes.

Q. And Greg Gammon and Lorna MacPherson were also involved with the – the renewal process?

A. Lorna was directly. She was one of the people that I worked with. Greg Gammon was the Director of the program and was not – I think maybe was tangentially involved in the renewal but (whispering in background) was not part of the project team that – when I was working there.

Q. Okay. And when – was your role on the project team to renew the presentations that were you know made to the Renewal Committee?

A. I don't recall specifically. My focus – my recollection – my focus was really about supporting the development of three new community-based options. The Direct Family Support, the Alternative Support, and the Independent Living Support, and to I guess provide a little bit of project management structure around how to get from where you were to where you wanted to go on some of those pieces. So again I – I didn't bring subject

matter expertise. What I brought was experience working within Government to move complex public policy questions forward in a way that we could you know get a bit of traction behind them. So I – if there were presentations to a Renewal Committee it probably would have been done by the people who had the expertise in the area.

Q. M-hm. So you weren't personally involved in reviewing the presentations that were – but you were aware that the Department had solicited presentations from…

A. Yes.

Q. …stake holders and people in the community about the issues that the – the Community Supports for Adults Program then faced?

A. Yes. I was aware that there had been a process of engagement. Again I wasn't directly involved in it but somewhere around that time there was conversation about, among other things, the Kendrick Coalition and other pieces of work that were providing input to the Department. I was aware that that was going on. Yes.

Q. M-hm. And were you aware that one of the issues that was identified, flagged back then in 2003, was the unnecessary or lengthy period of

hospitalization for folks in the forensic institution because they couldn't get access to places in the community through the Community Supports for Adults Program?

A. I certainly was aware that there were individuals who were in acute care settings. I don't know if I would have at the time known enough or been aware of the distinction which maybe folks who were in the Forensic Unit and folks who may have been in – in other acute care settings but was certainly aware that there were people who – if there were – was an appropriate placement would have been able to leave those acute care settings.

Q. Okay.

A. Yes.

Q. And by acute care you're just saying…

A. In a hospital setting. Yes.

Q. Hospital – hospital generally and so…

A. Yes.

Q. So that was one of the issues back there in 2003? That the – the Government or that the Department was – was aware of and focusing on as part of that renewal process? Is that correct?

A. I have no reason to – to think that that's not true. That – yes. I just wasn't around to be

part of it.

Q. Now you're saying that you were involved in the three initiatives to – and you've identified that and I think I – I – I will come back to that in a moment but I – I wanted to ask you some questions about your role with the Road Map Committee because you've just – you've just identified that you know in response to questions from Mr. Calderhead that you were the lead Government Representative, the Department of Community Services Representative, on that committee. Is that correct?

A. Yes.

Q. And it was that – was – it – the committee was running on a consensus based – basis. You were the Co-chair and you were the departmental point person for…

A. Yes.

Q. Okay. So although there were other Government people on the committee it was you know you were in a leading – lead position with respect to that group?

A. Yes.

Q. Okay. And you're aware that – that in that report you – and you've described it as

aspirational in the report but you've acknowledged that once the Government adopted it it became a commitment of Government and one of those commitments was to reduce – phase out larger residential institutional facilities?

A. Yes.

Q. Okay. And that has been repeated by Government since the – the Road Map report was endorsed by Government in your subsequent accountability reports that you submitted that you've identified that you continue to – with the goal of closing those institutions?

A. Yes. I would say that we're – we are trying to be very careful with the language that we are closing the programs. The institutions, the buildings, I think is part of the forward planning. We're looking to see if they can be repurposed for anything that would be of help to the continuum.

Q. Okay.

A. We did, at one point, start to use language about you know reimagining these facilities and very quickly regrouped that – that that's not the right language and we needed to – to make sure that we were being clear to our intent which is to close those programs as they currently

operate.

Q. Okay.

A. And not to just simply change them in some way.

Q. Okay. Well I'm just looking at – and I can take you there if you like. It's Book 8. Volume 1.

A. I have 8C.

Q. Okay.

A. There's that one.

Q. I think those – one of those…

MR. CALDERHEAD: You may have to use… (whispering in background)

MS. MACPHEE: What's the tab, Claire?

MS. MCNEIL: And it's Tab 26 and I just wanted to direct you at Page 4,590 of the joint book. So the page in the middle of the – the number in the middle…

THE CHAIR: 4,950?

MS. MCNEIL: 4,590.

THE CHAIR: 4,590.

BY MS. MCNEIL:

Q. Do you see that there, Ms. Hartwell? And I'm just going to direct you to the last line of this. This is an accountability report from the

Department of Community Services and it's a statement of – actually it's the statement of (whispering in background) – and just to repeat it's Page 4,590 and it's the accountability report from Community Services dated 2015/2016.

A. Yes.

Q. And – so this would have been during a period that you were – you were Deputy Minister when…

A. Yes.

Q. …this was submitted and you would have reviewed this document…

A. Yes.

Q. …before it was – before it was submitted so you're familiar with that and so you'll agree with me that the language used in this document is closure of the…

A. Yes.

Q. …larger facilities?

A. Yes.

Q. And that the language used is also that there's closure of the larger facilities defined as Adult Residential Centres, Regional Residential Centres, as well as the RCF's? (whispering in background)

A. Yes.

Q. And what's an RCF?

A. It's a Residential Care Facility.

Q. Okay. (whispering in background) And then it goes on to say,

"And it is designing a system that will support the transitional clients into community-based settings."

A. Yes.

Q. That's the other piece of it, isn't it? So – and – and if we – we – if we look at that report and I think you've identified the fact that you received a lot advice about what was going on in other jurisdictions through the course of – of doing that – this Road Map report was informed by that research that was done by IRIS and Michael Bach of what has occurred in other jurisdictions?

A. Yes.

Q. And it was also informed by the UN Convention of the Rights of Persons with Disabilities?

A. Yes.

Q. That's right in the preamble. The – that that was one of the kind of the interests of the – the committee and in terms of costing I would suggest to you as well that there was a – a very great awareness that there were going to be significant costs involved in implementing the – the – the recommendations in the Road Map?

A. Yes.

Q. And that was based on costing work that was done and I think you've indicated in your direct evidence that there was costing material available from you – from within the Department of Community Services as to what all these things cost. Institutions, and community-based placements, that information was all available to the committee as well, wasn't it?

A. Yes. We had staff who had expertise in that area come and talk about the various funding models, the various funding practices, and so we had a sense of what current costs were and we could extrapolate to some extent from the current costs but again it would be very dependent on what the array of services ended up looking like. So – but yes. I would agree we – we all weren't – we all understood that there would be – there would need

to be – there would be significant costs associated.

Q. Right. And the Road Map indicated that there would be the – the – in order – there would need to be year over year substantial investment. The Road Map originally recommended a five-year time frame but then I think it was the Premier at the time, Darrell Dexter, who increased it to a 10-year timeline but that would have been in – required a year over year funding commitments by Government in order to make that Road Map roll out and within that time frame, wouldn't it?

A. Yes. The – there's – we don't experience very many one-time costs.

Q. Sorry? You don't?

A. We don't – generally costs in this system aren't one time.

Q. Right.

A. They are about continuation of support so they are on an ongoing basis.

Q. By continuation as well as – as well as implementing those recommendations that required - changes would have required multi-year commitment?

A. Yes – yes.

Q. And you've also identified that the

commitment was made not just by the then Government but also to – by the – what is now the current Government to the commitments that are set out in that Road Map…

A. Yes.

Q. …report? Okay. Now one of the reasons for the shorter time frame that is identified in that report, and I don't know if you recollect this, but - was the fact that the (whispering in background) – the recommendation for closure of the institutions was done a short space of time because of the recognition from other jurisdictions and – and this came from (whispering in background) Michael Bach, who you've identified was – was retained because of his expertise and because of his knowledge of this area, that to not do it that way would expose the Government to – to duplicating costs in the sense of running two – two parallel systems at the same time by not closing institutions within that fairly short period of time.

A. Sorry. What – what was the question?

Q. Were you – do you recall that that was in fact one of the considerations before the committee? Was that the…

A. Mmm.

Q. That cost was relevant to the timeline as well. That – that it would increase cost to delay the closure of those institutions because it would duplicate their programs. Wouldn't it? (whispering in background)

A. Yeah. I – I don't disagree with that point. I don't recall us having a – a conversation specifically on that but I don't disagree with it so we may well have.

Q. Okay.

A. I think the – we often – I'm just remembering the hand gesture we use but we often described how we would need to build one system while dismantling the other and what that interim period looked like and that really the viability of that interim period was in fact dependent on both available resources but also the preparation of individuals and the systems to – to make that move.

Q. Okay. Perhaps I will take you to that report and you probably have it there somewhere.

A. I'm sure I do.

Q. It's Book 6A, Volume 2 of 3, and the report's found at – at Tab 32.

A. Yes. Thank you.

Q. So you'll see the – and I want to just take you to the section on reduced reliance on the ARC's, RRC's, RCF's and that's found at Page 2,877 of the joint book.

A. Okay.

Q. And you'll notice there that they set out the issue and this relates to what I just was asking you about. That they identified that significant public funds continue to be spent on an institutional model. You'll see that in the middle of that paragraph under the heading the issue.

A. Yes.

Q. So do you recall now – recall that now that that was a – a – a area that the committee focused on? That – that it costs a lot of money to run institutions and they don't produce what it says here,

"Quality outcomes for persons with disabilities."

A. Yes. I've…

Q. Yeah.

A. I've never – but I absolutely know we – we spoke about that. What I'm – what I don't

recollect is the conclusion therefore that the – that a short time frame would necessarily be the best way to transition to avoid overlap or duplication. That - that particular point – again I – I don't necessarily disagree but I don't remember it being a huge piece of our discussion.

Q. So – well if we go to Page 2,912 of the joint book…

A. Okay.

Q. …you'll see that's under a heading conclusion.

A. 2,912. Yes.

Q. And you know this is a – again a reference to the fact that the Road Map's going to require substantial investment, they identify beginning in 2014/2015, so that would have been in the next fiscal year after the…

A. Yes.

Q. Or at least this report is in – intended that that would start right away and you'll agree with me that that's substantial investment did not occur in 2014/2015?

A. I – I – I don't actually – I guess it depends what you define as substantial investment. I – I don't actually remember the '14/15 budget

year. It would have been just after an election so it was a little delayed so I – I'm just – I'm sorry. I just don't remember what happened in that budget year but again it depends on what your definition of substantial is.

Q. Well it wasn't enough to implement fully the – the – the…

A. Oh. No.

Q. …recommendations of this Road Map.

A. No.

Q. Yeah.

A. Absolutely not. No.

Q. Okay. And so it – it references here in the middle of the same paragraph that – that there was research that showed you that you would achieve cost effectiveness and savings and then it identifies certain ways in which you could do that. Do you see that there?

A. Yes.

Q. And it identifies the reduced reliance on congregate facilities. Do you see that?

A. Yes.

Q. So that – does that refresh your memory at all that that was one of the areas in which by closing the congregate facilities, which I think we

can all agree, are the larger residential facilities? That that was going to kind of setoff some of the increased costs of the expansion of the community-based options that were recommended by this report.

A. Sorry. That – sorry. Can you say that again?

Q. That the closure of the institutions…

A. M-hm.

Q. …was going to result in savings that – that – then could offset the expansion of the community-based options that would – were being recommended in this Road Map.

A. Yes. Okay. I – I think I see. You're getting in – it's that – getting at. That if we are not funding services - the larger institutions that we would be able to use that funding for community-based options?

Q. Yeah.

A. Yes.

Q. I think that's what it's saying there, isn't it?

A. Yes. I think…

Q. Yeah.

A. …that's what it's saying. That still to

me not speaking about how you transition from one to the other. I thought – and I'm sorry. I miss – and perhaps I misunderstood. That's what I thought your question was about.

Q. Well that was my – and – and so as a secondary part of that you'll agree with me that maintaining two systems at the same time, a – a residential – larger residential care facilities as well as trying to expand on the community side is going to expose you to double costs, isn't it as a Department?

A. No. I don't – I don't agree that it's going to expose us to double costs. People are either being served in one system or in another. There are undoubtedly belief that when we get to a point where we're running one system, the system that we've built and designed, it will be more cost effective and also having another system that is – that is not the one that we want. It just does – it doesn't equate to me though that we can easily – or that we can, whether it's easy or not, that we can actually say that if we just close down one we'll automatically be able to have the funding that would be sufficient for another. They don't – they don't equate.

Q. Well I wasn't suggesting they equate but I was suggesting that there would be savings to the Government in closing them. And I – I guess I would suggest as well you're saying that – well if you – you know if you fund people where they are - but there are – there's substantial fixed costs that the Government incurs in funding the residential – the RRC's and ARC's, is there not?

A. Oh yes.

Q. Regardless?

A. Yes.

Q. Okay.

A. And there's no – there is no hardened fast rule that one option has to be more costly than another. It is entirely dependent on what an individual requires so there are some situations where people who are living in a larger facility are able to, because they're living in congregate setting, the costs maybe lessened. To replace that in community where people are not living in a congregate setting the costs maybe more or they may not be. You may actually be able to develop a – as it says in this document,

"Increased use of generic community

services."

We might be able to design systems where we can deliver that just as efficiently. Again it really is depending on where we're going with moving people.

Q. So I'm just going to – there is evidence from Ms. Lill who also testified before this committee and was a Co-chair with you if you recall? She was your – your community coach at that…

A. Yes.

Q. Yeah. And she had in – indicated that there – the – one of the relief – reasons for seeking a reduced time frame was this question of the duplication of costs…

MR. DOUGLAS: Mmm.

BY MS. MCNEIL:

Q. …and I'm just wondering if you could clarify that for me?

A. If that's her recollection then that's what must have been discussed.

Q. Okay. So I just wanted to take you to the – and – and you've already been taken to the – the part where it suggests that people with disabilities have the right to be – live in and be

included in the community but I was going to take you to Page 2,888 of the joint book and it's the…

A. Okay.

Q. And you'll see near the top of the page there's a heading equal access to housing.

A. Yes.

Q. Do you see that there? So I'm just going to ask you some questions about this part of the report and you'll agree with me that it identifies there that there's roughly – that Nova Scotia is the place that has the highest proportion of people with disabilities in the country, at 20 percent, living in large congregate facilities. Correct?

A. 20 percent of the – of the population report having disabilities but not 20 percent living in large facilities.

Q. Right.

A. There's two different numbers.

Q. Okay.

A. So 1,100 people with…

Q. 1,100.

A. At that time there were 1,100 people living in larger facilities.

Q. And so – okay. And then you'll notice there towards the mid part of the – of the paragraph

that the primary source of housing and disability support for people with disabilities is, and this is – we're talking about adults here, aren't we?

A. Yes.

Q. And it's identified as being their parents' home?

A. That's correct.

Q. And you'll also agree that there was - identified in the course of the committee's discussions the problem that many aging parents are in a poor position to continue to support their adult child in their home?

A. Sorry. Could you repeat that last one? I was – if I could just…

Q. You were focusing on something else.

A. Yeah. I was…

Q. Yeah.

A. …going back to the first question. I think maybe – it may have been…

Q. I was just going to ask you about the support of – of adults in their parents' home.

A. Yes.

Q. It was identified as being an – a difficultly because those – many of those adults would be more appropriately served, and preferred,

to live independently?

A. Yes.

Q. Okay.

A. Yes.

Q. So I – was there something else you wanted to add?

A. Well there's just a clarification. Again looking at it now with fresher eyes it may have been helpful if we were clear that the primary source of housing and disability support for persons with disabilities is the parents' home. I – I think that's referring to – to people who are part of the DSP Program. There are many individuals with disabilities who are, for example part of ESIA or part of – who have a disability but are not part of a Government Program that don't live in their parents' home, there's – there's a…

Q. Yeah.

A. There's somewhat a connection between the you know the profundity of the disability and the likelihood that people are going to be living in a supported environment so…

Q. I – I think that's an important clarification, yeah, and I think that was the context for this – this committee's report was…

A. Focusing…

Q. There was those…

A. Yes.

Q. Those people who were dependent on what's now known as the Disability Supports Program because you were looking like you did in the renewal process. You were once again looking at how can we reform this system?

A. Yes.

Q. Yeah. Okay. So you've identified the three areas that you were involved in in the mid 2000's and those were not unlike this – this – this issue here that you – you were supporting something called the Direct Family Support Program when that was exactly what we're talking about is the…

A. Yes.

Q. …Department of Community Services providing funding to families to provide care for their adult child in their home…

A. Yes.

Q. …through the Disability Supports Program and the Alternate Family Support Program and – and we don't like the terminology Foster Parent but it replaced what had been an earlier Foster Parent type Program for – for adults with disabilities who

didn't have a parent but might – might want to live in a Foster Parent situation?

A. People who wanted to live in a family setting. Yes.

Q. In a family setting. And the third area that you identified that you worked on was something called Independent Living Support?

A. Yes.

Q. And that was a – a program that superseded or took the place of what had existed at the time in the form of a Supervised Apartment Program?

A. Yes.

Q. And so the Supervised Apartment Program was phased out I guess apparent – people were grandparented in a sense that they were allowed to remain in their – in the places where they were living but there were no new supervised apartments approved after that time. Instead it was called Independent Living Support?

A. That's right and that was in part an effort to try to have consistent practice across the Province.

Q. Right.

A. Because there had been different

practices in different areas.

Q. Right. And so it also, expansion - make sure that the – the Province all had access…

A. Yes.

Q. …to those – to those programs and – and there was sort of three freestanding policies that were developed and – and promoted during that time and those were – that would have been under your watch…

A. Yes.

Q. You were the policy person responsible for that and they were described as SPD Policies, Services for Persons with Disabilities Policies, is that correct?

A. Yes.

Q. And they sort of operated along side what was the current Policy Manual from 1998 which was the Community Supports for Adults Policy Manual which was never – which continued to operate along side those new policies. Correct?

A. Yes.

Q. Is that kind of the patchwork that you were referring to yesterday? You said there was a bit of an mishmash and is it fair to say that that's when the mishmash sort of started was there in the

– in the mid 2000's when you were trying to sort of recreate some – some different terminology and some different policy resources for – for workers and – and so you became – you started to get this – a bit of a patchwork going on there?

A. I would say the patchwork preceded that in the sense that we inherited different – different policies and different ways of working from Municipalities as part of the transfer but I'd say in retrospect our creation of three different programs were three other additional things that were not necessarily part of a – an overall lined point of view. Again because we were very focused just on creating those community-based options but seeing it in retrospect maybe we added to the mishmash but it was a desire, an idea, a – a priority to be able to focus on having other community-based options that would support at least some clients.

Q. Mmm. But – yeah. Because a – a comprehensive policy manual under the – the name Services for Persons with Disabilities was never accomplished, was it?

A. No. I don't believe so.

Q. Okay. And – and in fact if we look back

on it it's true that the Department inherited in 1995 an array of Municipal programs but that was rectified by '98 when they came out with the comprehensive, 1998, Community Supports for Adults Manual, wasn't it?

A. I think there may have been a manual but I can attest that the practice across the Province remained very disparate.

Q. Okay, but from a policy point of view, and that was your role in the mid 2000's, you were adding onto an existing policy manual that was a comprehensive policy manual under the name Community Supports for Adults?

A. Yes. My role specifically though was to work on those three. I – I actually had no oversite of the overall policy manual. That remained…

Q. Okay.

A. …with the division.

Q. Right. So I just wanted to – to return again, if I could, just to – just to the Road Map and I'm just going to talk about it in general terms. I don't know that we need to necessarily go to the exact passages but right in the preamble it identifies that the Road Map was intended to – or was developed based on the commitments of the

Government of Nova Scotia to reshape the system of supports for persons with disabilities to move beyond the institutional model. Does that sound right?

A. Yes. That sounds right.

Q. And that in doing so the Government was informed by the Convention – the International UN Convention on the Rights of Persons with Disabilities. Is that correct?

A. Yes.

Q. And so throughout the process, the discussions and the – and the actual preparation of this report, that was on the committee's mind that it wanted to make sure that it was reflective of the current understanding of the rights of persons with disabilities?

A. Yes.

Q. Okay. So kind of a rights based approach if you like?

A. Yes.

Q. Okay. And this – the Convention on the Rights of Persons with Disabilities emphasizes the obligation on Government, doesn't it, to take all the steps necessary that it needs to to avoid discrimination against people with disabilities?

A. Yes.

Q. And one of the ways that you do that is by, according to the Convention, is by making sure that disabled people have access to housing that's appropriate to their needs and that is responsive to their choice and is in community. Correct?

A. Yes. I believe that's what it says.

Q. And the Nova Scotia Government in endorsing this report is – embraced, and quite independent of this report, has embraced that obligation as it – as it is expressed in the Convention on the Rights of People with Disabilities?

A. Yes.

Q. I think you said that in your direct evidence. So – and – and I think the – the Convention also identifies that people, not only people with disabilities need to be included in community, but to avoid segregation from community as well. That's one of the principles within the Convention?

A. Yes.

Q. And to avoid being isolated from the community.

A. Yes.

Q. Is that correct? And you'll agree with me that the term community, in the Convention at least, is used to mean community at large. It's not referring to a segregated residential setting like a – like a large residential facility?

A. Yes.

Q. Okay. So it's talking about you and I would normally consider to be a community and I just wanted to refer you to another – another source for the Road Map which was this Putting People First initiative and you recall that that was a joint health…

A. Yes.

Q. …and Community Services initiative and it was funny it just kind of almost just preceded your Road Map Committee but it was referred to that - that that work - and eventually was a report published, I think very early in 2013, was a resource as well for your committee, wasn't it?

A. Yes.

Q. And so in that report and – and I don't know if you – you – perhaps I'll take you to it. It's in – I think it's right in front of you. I think it might be 33. Just to make it a little easier.

A. Direct…

Q. So does that look familiar? Is that the…

A. Yes. It does.

Q. The report that we're talking about? And I just wanted to refer you to a couple passages and one's at Page 2 and it's – this - just to give a bit of background this is a report that was looking at sort of companion programs within the Provincial Government for persons with disabilities and on the one hand with Community Services it was this Services for Persons with Disability, what's now known as the Disability Support Program, and on the health side it was Continuing Care. So…

A. Yes.

Q. So this process is looking at both and at this point on the second page it indicates that the current system for persons with disabilities was developed when most residential care facilities was based on a custodial paternalistic or medical model and that despite the downsizing and closures of many large residential care facilities insufficient attention has been paid to expanding community supports?

A. Yes.

Q. Okay. And so that's consistent with the

Road Map's own conclusions as well, isn't it?

A. Yes.

Q. And – and it goes on to talk about defects in sort of the assessment system. Do you see that second paragraph that talks about individuals – that's the second line of that second paragraph there,

"Individuals are sometimes assessed against available services based on their presentation (symptoms and behaviors) rather than the supports required to improve independence within conclusive communities."

A. Yes.

Q. Do you see that? And that was a concern as well for – for the Road Map Committee and in fact continues to be concern for this program. So the Disability Supports Program is – is the difficulty in creating an assessment or classification system that's responsive to what people's needs are as opposed to trying to fit them within the box – I'm sorry. Within the – the categories of – of the classification system?

A. Yes.

Q. Okay. So I'm just wondering if you want to elaborate on that?

A. Well it wasn't really a – it was a question I think that asked whether the things that were written down here were consistent with the Road Map and the answer is yes, I believe they are.

Q. All right. Well maybe I'll come back to that in a bit then. And you'll recall that in its discussion of large residential care facilities in this People First report it clearly included Regional Rehabilitation Centres, Adult Residential Centres, as well as Residential Care Facilities. Do you recall that?

A. Yes.

Q. So it was – it was those three – three groupings and – and these findings are referenced in the Road Map report. Is that correct?

A. I believe so. Yes.

Q. So basically would you agree with me that large residential settings are contrary to the goal or the objective here in this – about these reformed processes which is to support community inclusion?

A. Yes.

Q. Because large residential settings,

despite best intentions or the – the qualities of staff for whatever they do, represents segregated living arrangements for people with disabilities?

A. Yes. That's why we're doing the work that we're doing. Yes.

Q. And if I could just have a moment please. So – so – and if we go back to the Convention of the Rights of Persons with Disabilities segregating people or denying them the services they need to live in the community is an example of a treatment which is – which is contrary to the – to the obligations contained in that Convention?

MR. KINDRED: Objection. Just – and that's on the borderline of a - asking for a legal conclusion. I think…

THE CHAIR: Well…

MR. KINDRED: …I understand the purpose but I don't want it to be taken as a…

THE CHAIR: Yeah. Well that's – that's fair enough but you know I'm asking myself, you might say, what Ms. Hartwell might say about – she's used the word embraced, for example, and – and it made reference to the Union – I'm sorry. The Province adopting in some manner or means the UN Declaration. They're not – I can see where this is

coming from but the provision of the kind of housing that the Complainants seek is a matter of right and not to be denied by anybody and to be, I suppose, the remedy they might seek from me is that it be implemented immediately and I'd like to know from Ms. Hartwell what she means by embraced and what – what the role and status of the UN Declaration is because I – I understand their argument so far. It's pretty – pretty important to what the – well saying to me so with that background I ask Ms. McNeil to carry on.

MS. HARTWELL: So could you repeat the question?

BY MS. MCNEIL:

Q. So I was wondering if you could just – I – I was taking you back to the Convention, so we've looked at the – the fact that residential care facilities and the RRC's and ARC's are segregated living arrangements for people with disabilities and again going back to the earlier testimony that you gave that – where you agreed that the Convention specifically talks about the need to eliminate segregation of people with disabilities from the community, whether you agree with me that the continuation of those services represents departure

from that – the – the obligations that are contained in that Convention?

A. I believe that this is where some – the conversation about what expectations under UN Human Rights Law are generally and where I was introduced to the concept of progressive realization in the sense that signatories to the Conventions can agree that this is – this is where we want to be and we will – we will get there as – get there as we are able to get there and so that – obviously that commitment is going to be a bit different if you're living in a country like Norway versus maybe another country that would not have access to the – the same resources. There's not starting from the same playing field so for us we believe that our – our continued efforts towards meeting that goal are part of a progressive realization of that goal. So were we able to, once the Declaration was adopted, you know immediately transform our system as – as we have it to a system – the system that we are desirous of. No. We were not but we are committed to the progressive movement towards that goal.

Q. And so with respect to discrimination though, and I'm not talking about the areas of progressive realization, I'm talking about with

respect to non-discrimination if, and I don't know whether you're aware of this, if – if it – if it – if the principle of progressive realization doesn't apply to discrimination if it's in fact something that needs to be immediately implemented. Would that change your thinking at all or were you aware of that?

A. No. I'd have…

MR. KINDRED: I – I should – and I – I had her guidance on this. I should for the record restate my objection. I think this is asking…

THE CHAIR: Okay then. That's fair enough, Mr. Kindred, but this is an issue that I think is large and important and if there's anybody who is able and – to express a view on it from the Government's point of view surely it's Ms. Harwell and I – I'm interested in hearing it. She's also a lawyer. I mean in the end it's up to me, ha-ha, and you know on the basis of the submissions that you make I'm aware of what – what – where my opinion evolves but suffice to say from my purposes I find this helpful.

BY MS. MCNEIL:

Q. So you'll agree with me that there are two types of obligations and international law and

some are progressive as you've described but some are of immediate effect that require Government to take immediate action?

A. Yes. If that is the – that is the standard. Yes. I – I understand that that could be true.

Q. Okay. And that – with respect to non-discrimination if it were the case that that was one of immediate effect that that – would that change your position on – with respect to this?

A. Change my position on whether I felt that we were abiding with the terms of – or that there was discrimination or that we were abiding…

Q. Yeah.

A. …with the terms of the Convention?

Q. We were talking about the existence of large residential…

A. Yes.

Q. …facilities that – that create a situation where people are segregated and the – the – whether the – the delay or the denial is – in providing people with the services they need to move into the community. Whether that's something that in your mind that creates a – a – a problem with – with – there's a immediate obligation to

address that. You're operating on the assumption that (whispering in background) it's the progressive realization I take from your evidence?

A. Well I – I have – yes. I have been but maybe also because I'm rooted, not necessarily in theory, but in practice. At any time if – if the standard changes or if – if there's a point where it's clear that we are not in compliance then our role is to work to get us into compliance and so there's not a world in which I – I guess there's not a world in which I could say that we're aware of it. If we were aware of the issue and not acting I think that would be perhaps different but I can only speak to my time involved with the file. We are very aware of it and have been acting so I'm – I'm not sure if I can say much more than that.

Q. Okay. And at the time that you were writing the Road Map the Convention had been in place since - I think Canada ratified it in approximately 2006. Does that sound right?

A. Yes. That sounds right.

Q. Okay. So it had been around for six or seven years at that point. We're now at 2018. The Convention is now over 10 years old?

A. Yes.

Q. Yeah. So you'll agree with me that that's not – not immediate even if – if it was intended to be is it – it's – Government's had 10 years to – more than 10 years to – to meet the obligations of that Convention? (whispering in background)

A. Yes. I would say all jurisdictions in Canada are continually are trying to both meet – meet the obligations under that Declaration or any other Human Right whether it's Rights of Women or others that we are constantly in a – in a mode of trying to best meet – best meet the obligations that are set out.

Q. So I'm just noting here that one of the things that was identified and you've already stated this at their – at the time of the Road Map there approximately 1,100 people who were identified as living in large congregate facilities in Nova Scotia and you'll recall that the research that was before the Road Map Committee showed that Nova Scotia was more likely than other provinces to support people with – with those types of disabilities in large congregate facilities. So 1,100 people and at that point if we assume that the total number of – of participants in the program was around 5,000 and we know it's around you now

said the most current figure is around 5,400. Correct?

A. Yes.

Q. So 1,100 people in congregate care facilities that's a lot more than 10 percent, isn't it?

A. Well I – the number – current number – the reason the current now, 5,400, the current number I think is closer to 950.

Q. Okay. Well maybe we'll go…

A. But…

Q. …to the most current numbers that we have…

A. Yes. If we could get the most current then…

Q. So if you have the – the Volume 3, Tab 17, I think you were looking at this before. This is the table and Mr. Calderhead took you to this table for a different purpose but I'm going to ask you to look at some different figures.

A. Okay. I'm there.

Q. Oh. You're there. So at Tab 17 you'll see – and these are the most recent figures but they wouldn't have changed dramatically between the most recent year on record on this form which is

2016/2017 and – and now. We're apt to see dramatic changes, aren't we?

A. Is that a question?

Q. Well let me – let me ask my next question then. So we can see that – if we look at the year – I don't know what year the Road Map Committee had figures for but if we look at the top of that page it identifies a number of different categories. Residential Care…

A. M-hm.

Q. …Facilities, Adult Residential Facilities – Centres, Group Homes, Developmental Residences, and Regional Rehabilitation Centres. Do you see that first…

A. Yes.

Q. …four headings?

A. Yes.

Q. So if we just focus in on, because this was what the Road Map Committee focused in on, was the RRC's, ARC's, and the RCF's.

A. Yes.

Q. And we look at the numbers there for 2013 – 2012 to 2013 when I did the math I got 1,115 which is very close to…

A. Yes.

Q. …the 1,100 that the Road Map Committee is working with. So that looks right to you?

A. Yes.

Q. And so if we look at that – that number and we look at the total number of participants at that point we see the total amount of participants was 5,177 for that same time period. Down at the bottom there. Do you see that?

A. 5,197?

Q. Oh. I think it says 5,177 doesn't it? At the bottom of the 2013 – 2012…

A. Oh. I'm sorry. I was looking at the '16/17.

Q. Okay.

A. Yes. Sorry.

Q. 2012…

A. 2012/13. Yes.

Q. …2013.

A. Yes. So 5,177. Yes. Sorry.

Q. So you'll agree that the proportion of people in those three large congregate care facilities is probably closer to 20 percent at that point?

A. Yes.

Q. And if we scroll up to the most recent

year that we have figures available for and we look at 2016/2017 and we do the same exercise when I did the math I got 1,003 and that would be explained perhaps in part by something you described as your Project 25 which is that you - perhaps some of those people left because they were part of that initiative that you've described where people were taking – moved because you got an extra – approval for some extra funding to do that but again if we look 1,003 compared to 5,197 which is the total amount of participants indicated for that time period you'll agree with me that it's just under 20 percent between 19 and 20 percent are in those three large congregate care facilities for that time period?

A. So just looking at the RCF, ARC, and RRC?

Q. Yeah.

A. Yeah. Okay. Yes.

Q. So that's a lot more than the 10 percent that you've indicated in your direct evidence yesterday, isn't it?

MR. KINDRED: Well to be – to be – make sure a fair question is put to the witness the evidence as I have it in my notes from yesterday was that the witness testified that 10 percent today were in

ARC's and RRC's. The largest facilities. I think you maybe comparing them to different numbers.

BY MS. MCNEIL:

Q. When we're talking about large residential facilities and – and those were the three large types of facilities that were identified in your Road Map Committee report were they not?

A. Yes.

Q. And they've been – they were the three that were identified in the People First – Putting People First research that was done? They grouped those three large facilities together as in – under the – the commission of larger residential facilities in this Province?

A. Yes.

Q. Okay. And you'll agree with me that nothing has changed in the way those three facilities are operated from – since the time of the Road Map Committee?

A. No. I…

Q. No.

A. Generally speaking, no, but of course there have been changes and their ways of operating are programming offered or whatever but generally

speaking, no.

Q. Yeah.

A. We still fund them the same way they still provide the same model of care.

Q. So there's…

A. Yeah.

Q. …no reason to not accept that the Road Map Committee's identification and – and the Department of Health's identification is those are the three types of large congregate care facilities in – in Nova Scotia right now that are being operated?

A. No. I – I – yes. I agree.

Q. Okay.

A. That's right.

Q. And so when we look the three types of model – large congregate care facilities that are being operated in Nova Scotia and we look at the total number of DSP participants it's really more like 20 percent are being housed in the larger residential facilities not 10 percent.

A. They are – yes. If you include the residential care facilities but it's important to note how different the model of care for residential care facilities are than the other two

and so you know I actually liken them closer to rooming houses. They're not the ideal – where all services – they're not the ideal community placement in the sense that there's still large – larger groups of people living together but they're not the same model in which all supports are brought into that facility which is the model for RC – the RRC's and the ARC's so their model is different and it's one that we know that the participants there often have greater – much greater exposure to the community at large because of the nature of the – of the – of that model so I do differ – I do differentiate it in the sense of if we're prioritizing movement from the most structured – most structured and – and artificial environment to a more community-based that's why we're focusing on the RRC and the RC so…

Q. But you'll agree with me and – and if we go – we can actually go to the Page reference, 2,877 of the Road Map Committee report, it identified that it considered ARC's, RRC's, and RCF's all to be large congregate care facilities…

A. Yes. No disagreement. Yes.

Q. Yeah. And that – so did the joint Department of Health and Department of Community

Services report, Putting People First, grouped those three large congregate care facilities together as well.

A. Yes. They are not community-based options in the same way. Not at all.

Q. Okay. And that Government made the commitment towards closing those three types of institutions when it endorsed that Road Map…

A. Yes.

Q. …report? And the – and that you're now indicating that you're coming before this Board saying, "No. We decided not to phase out…

A. No.

Q. …the RCF's?"

A. No – no.

Q. And I was just going to ask you when did that change and where was that commitment?

A. That's not what I meant at all.

Q. Okay.

A. What I meant that is in terms of where we were starting our work. It is with the facilities that least resemble a community – a community-based setting. Those are the ones where the model is based on residency living congregately and services being brought into them so their community is very much

based on where they live. The RCF's are not desirable for the sheer number of people that are living together. Again it's an artificial setting but the people that live there do have access and do maintain a different level of community involvement so they are absolutely on the agenda but we have to prioritize.

Q. And you'll agree with me that they're seen as least desirable in – in – in – among the options because of the fact that there are shared bedrooms, shared bathrooms, there's aging infrastructure and in fact your own Disability Supports Program have identified that they have the shortest waiting list, i.e., nobody wants to live in the RCF's, do they?

A. Yes. That's exactly right. That's why we've included them as of those that have to change. Yeah.

Q. But they're not part of your first priority. Those – that's reserved for the RRC's and the ARC's is your evidence?

A. At this point in time, this year, yes.

THE CHAIR: May I ask how many are – we've been kicking around the number of about 1,000, to round numbers, how many of those would be in these

residential care facilities?

MS. MCNEIL: According to the statistics here…

THE CHAIR: Yeah.

MS. MCNEIL: …448 in the most recent statistics available.

THE CHAIR: So about 45 percent? 40 percent?

MS. MCNEIL: Yeah.

MS. HARTWELL: Yeah. I would – my most – my most recent numbers show, again, a decline in that population so we – we naturally are not placing as many people in that facility – in those facilities so it is going down.

BY MS. MCNEIL:

Q. If I could just have a moment with my notes. So I just wanted to just touch on again this – the Flex Program that you testified about before and that's the program that we just talked about by what it does that's the program that provides - the Disability Supports Program provides financial assistance to families who – who – their adult child with disabilities living in the home with them?

A. Yes. That's the Flex at Home and it – it – again it needn't be a child. It could be we have

brothers and sisters and cousins.

Q. Okay. And you've indicated that this was also a focus of yours in the mid 2000's when you innovated and – and came up with the Direct Family Support Policy that – that was identified back then as – as a kind of a – a priority for the program to encourage that program?

A. Yes. I worked on that.

Q. Okay. And you'll agree that there's – that there has been identified a – a problem in terms of aging parents who are not able to provide the care that's needed in those situations and that was identified both in the Putting People First report as well as the Road Map report?

A. Yes.

Q. Okay, but that continues to be a focus for your Department and is actually until quite recently, I don't know if currently, but until quite recently it was tracked as a performance indicator, the number of – of people that were being supported in their parents' home, through this – through this program?

A. Yes. We track how many people are in that program.

Q. And the significance – significance of a

performance indicator is the – is that you want to enhance or encourage the growth of that particular area of the program. Is that correct?

A. Yes.

Q. And – and you spoke of the fact that it's one of the few, whether you consider just Flex or the Enhanced Family Support as well, it's one of the few that is uncapped in the…

A. Yes.

Q. …sense that you – there's – as a result of the fact that it's uncapped there isn't a waiting list for it. Is that correct?

A. Yes.

Q. But you'll agree that Flex can't support everyone? That it's really only appropriate for people who have both the desire and the ability to have their adult child at home with them and from the – from the point of view of the person with disabilities who want that kind of living situation. Right?

A. Yes. It is not for everyone.

Q. And it also is – it requires people to have a strong support network and if you don't have that strong support network you're not going to be eligible for the Flex Program?

A. You – you may be – I'm not sure – the support network isn't necessarily prerequisite to eligibility for the program but I think its success for individuals is contingent on them having a strong support network for certain. Yes.

Q. Okay. I just wanted to ask you the – the – when you were involved in the mid 2000's I think you were – it's indicated that you were part of the – maybe this has come up already. Forgive me if it has. You were part of that sort of pilot project look – trying to look at fixing the classification system and coming up with a new assessment process and that was – I believe it led by Judy LaPierre who is kind of the – the – the CSA or is - I don't know if it's SPD specialist at the time?

A. Yes. I was part of the – the same team as Judy. I – I wasn't part of the assessment conversations in deep way. Again I didn't bring the expertise in that but was certainly mindful of it and its impact in – in being able to support the other things that we were trying to achieve.

Q. Okay.

A. So yes.

Q. So you were aware that – even as early as that that it was identified as a – as an issue?

That – that the classification system was faulty and in fact Judy's – Judy LaPierre's research showed that it wasn't a reliable method to be using to – to assess people and – and make – make decisions for the Department of Community Services to rely on that in making decisions about what services to provide?

A. So yeah. I was aware that our assessment methodology had its faults and that it was not the optimal tool for doing the forward-thinking work that we wanted to do that – in – in order to actually start to plan for people to have a more inclusive – more inclusive opportunity. Our assessment tools were very focused on immediate needs and matching with a particular placement. So trying to fit different people into existing placements as opposed to being a robust tool that we could use to actually help people plan what their future wanted to be. It wasn't meeting that and like all tools they can – they very much depend on the clear ability of – of staff to apply them and so even in its – in its you know its primary use of the time or historically there would sometimes be quite different outcomes based on different staff applying the same tool. So that told us that we

needed to have a – a more robust tool. It wasn't – it certainly had its faults. Yeah.

Q. Right. So it – it kind of depended on who your worker was and – and to some extent in terms of the exercises the discretion or judgements about how that assessment tool was actually used?

A. That is one of the characteristics of providing human services is that there are human beings who are making judgements and as much as the tools try to provide a guidance and a clarity around that there are individuals who are making judgements and – and sometimes they can lead to quite different results so we try to have tools that are a little bit more structured.

Q. Right. And so this tool was seen as being defective. Not being up to capacity at that time. It was either - you were looking at ways to try and replace it?

A. We were hoping that we could find something better. Yes.

Q. And one of the problems was as well that it wasn't aligned with health at all like you were operating two different classification systems?

A. Yes, and there – so our systems didn't necessarily talk to one another easily, but also

that I – there was also evolving understanding that using assessment tools that really focused on limitations rather than assessment tools that were able to build on their strengths was no longer something that was helpful. It ended up with people being very much locked into a medical model so we were interested in an assessment tool that was a bit more forward thinking.

Q. Right. And that had been – I don't know if you've – I don't want to put you on the spot. If you've read the Kendrick report that came out in 2001 but that was the independent evaluation that was commissioned by the Department of Community Services to look at the reform of the community-based option program. Is that something that you're familiar with or would have been familiar with?

A. Yes, and I would have read the Kendrick report in the past. Yes.

Q. Okay. And so that – I – and – and I don't know if this is fair, if you recall, but that was one of his – one of the pieces of his report as well is that very problem is that the classification tool was facility based. It wasn't looking at individual need. It was looking at the – trying to shoehorn people or fit – fitting them

into boxes within the existing facilities. Is that…

A. Yes.

Q. …correct?

A. Yes. I'm aware of that. Yeah.

Q. And – and that could even be really clearly seen in the – in the classification back before it was different levels because it actually referenced the different facilities? (whispering in background)

A. Yes. I'm – I wasn't aware that it was that specific that it referenced facilities but…

Q. Okay.

A. …that explains some of its faults.

Q. Okay. So there was RRC, ARC, you weren't aware of that but – or does that ring a bell…

A. Oh. I thought you meant specifically by name. That we had actually…

Q. Oh. No.

A. …identified particular…

Q. No – no.

A. That I wasn't aware of but no. If it was certain levels of care, yes. I was aware that…

Q. You were aware of the R – RRC, ARC…

A. Yes.

Q. …RCF level of care?

A. Yes.

Q. Yeah. And that that was identified as early as 2001 as being a barrier and the problem with having a tool that's not reflective of people's needs is that people may not get access to the supports and services that they need based on the application of that tool?

A. Yes. That's a risk.

Q. And the other risk is that they could be excluded by reason – by reason of their disability when you look at some of the criteria that were used under that classification tool that disqualified people, many of them related to their disability, didn't it? (whispering in background) Like…

A. Sorry. Can you say that again?

Q. Like behavior as a reason to exclude somebody from receiving a service. You'll agree with me that that's using someone's disability as a reason not to provide them with disability and supports services?

A. Well I'm – I'm reacting a little bit as using it as a reason why. I don't think that we would ever have used an assessment tool for the purpose of trying to exclude someone. However I am

aware that in the past when there were behaviors that were challenging or when there was – when behaviors that were influx or when people's needs were changing it led to the tool not being able to appropriately identify where they could best receive service and so as a result that was the gap that was created so yes. It – it absolutely sometimes did not deal with – was not an accurate way of assessing the complexity particularly if needs were changing or behaviors were escalating.

Q. And we talked about that or you testified to that earlier that it also led to these group of people being unclassifiable and that that again is a – just a representation of the same phenomenon of people being – falling between the cracks because they couldn't fit within the boxes of the classification tool. Is that correct?

A. Yes. That's correct.

Q. Mmm.

A. Unclassifiable led to people not being able to – my understanding is not led to people getting the supports that they needed in part because whatever was going on in their life at that time did not easily fit within that tool.

Q. And it was identified, and I don't know

if you're – you – you're aware of this because it was in a period of time when you were absent from the Department, but I'm wondering if you then came to deliver – learn of it upon your return, that the Auditor General, because it required follow-up by the Department, that the Auditor General in 2010 identified that the Department of Community Services Disability Supports Program would have been the SPD at that point classification tool needed to be – it was outdated and that it needed to be replaced?

A. Yeah. Yes. I'm aware of that recommendation.

Q. Okay. And it – that you would have presumably been part of – that would have been part of your responsibilities to follow-up on that – the recommendations of the Auditor General and – and we know from your testimony that that tool was eventually replaced by what we know as the level of care policy which came into effect around 2014. Is that correct?

A. That's correct. Yes.

Q. Okay. So it's sort of four years later and we have as well in the evidence even more information about some of the – the continuing

challenges with assessment and classification and are you aware that – that currently the information that's both independent and internal, I assume, within your Department is that the existing tool is not reliable and needs to be replaced?

A. Yes. We're looking for a new tool.

Q. Okay. So that the classification system continues to be a – a barrier to people in terms of the – their ability to access a person-centered services and supports to enable them to live in the community?

A. I would say the assessment tool continues to be the challenge in us adequately determining what people actually need and us being able to create and group like kinds of supports so that we can create programming around it. Yes.

Q. But from an individual point of view you'll agree with me that it could result in a situation where somebody was denied the services that – that – that were appropriate or were – were given services that you know placed in situations that weren't responsive to their need?

A. Yeah. Yes.

Q. Okay.

A. Yes.

Q. And in fact some of your research shows that so when you go, and I think you did a comprehensive review of – of everybody in the residential facilities, some within the last few years and you found that people are at all different levels of care in all of the different…

A. Yes.

Q. …residential facilities that you run so you have people who have vary little need who are being placed in very restrictive residential care facilities. Is that correct?

A. Yes. We have people we – we described as people who are underserved and people who are overserved.

Q. Right.

A. Because our tool is not necessarily linking need with available resources.

Q. But you're aware that this concept of over service when it applies to like a large institution is actually – doesn't really tell the full story because you're also aware from, and this is in the Road Map report as well, that it does harm to people to be in institutions when they don't need to be there. It's not quality of care.

A. Absolutely. Again that's exactly why

we're doing the things that we're doing.

Q. Okay. (whispering in background) So – and so I do have another report but I'm just going to show you there – there's a document here we'd like to – to – oh. Thank you Katrin. That's great. We're going to introduce this document and I'm going to show you a copy of it and we can talk about it.

A. Okay. (talking in background)

EXHIBIT #71, marked and entered, Individual Data-based Assessment Separation and Supports Planning dated April 5, 2016

MR. CALDERHEAD: Sorry. What Exhibit number?

COURT REPORTER: 71.

MS. HARTWELL: Thank you.

MR. CALDERHEAD: 71.

BY MS. MCNEIL:

Q. So you're looking at – I'm going to show you the document, Exhibit 71, and this is titled Individual Data-based Assessment Separation and Supports Planning. Are you familiar with this document? Have you seen it before?

A. I believe I've seen it before. Yes.

Q. Perhaps you could identify the author of that report…

A. Looks…

Q. …John Agosta?

A. Yes. It looks like John Agosta and one of his associates whom I don't know and John Agosta has been working with the Department over the last couple of years on our – our transformation project.

Q. Okay. And he is working with your Disability Supports Program Transformation Process?

A. Yes.

Q. And in particular – and is he – and he's an outside expert that you've retained? He's not employed directly? He's…

A. No. He's an outside expert.

Q. Okay. (whispering in background) And so this a – a piece of work that you've – where he was retained to look at some of the – the assessment and planning that the Department's engaged in and give his own assessment of that and I wanted to turn you to some of the concerns that he raised and that's at Page 7 of this report and you'll see that he's listed a number of concerns and this is – the

date on this report is April 5, 2016, and he's identifying a – a number of concerns but I wanted to take you to sort of the three bullets kind of in the middle there. So you'll agree with me that your outside expert has identified that there's too much emphasis on facility based approaches to service delivery?

A. Yes.

Q. And he's – by facility based he's talking likely about the same kinds of things that you and I just referred to? The RRC's, ARC's, RCF's at least that much. Right?

A. I believe so. Yes.

Q. Yeah. And he's also identifying there that there's a lack of tools for support service planning and service use consistent with the community integration and self-direction. So again these are – these are assessment tools that he's – that he's including in that description there?

A. Yes. I believe so. I would have - think he maybe including other tools as well that – yes. Assessment tools but when I read, service use consistent, there's probably other planning tools that we – that we are interested in having as well consistent with the Road Map.

Q. So I think those were – those are all my questions.

THE CHAIR: Thanks – thanks, Ms. McNeil.

MR. CALDERHEAD: Sorry?

THE CHAIR: Commission counsel? (whispering in background)

MS. FRANKLIN: Could I just have a moment?

THE CHAIR: Yeah.

MS. FRANKLIN: Just to make sure.

THE CHAIR: Perhaps we should…

MR. KINDRED: I – I would ask for a short break next as I still…

THE CHAIR: Yeah.

MS. FRANKLIN: Okay. Perfect.

MR. KINDRED: Do that now.

MR. CALDERHEAD: Oh. There…

THE CHAIR: So collect your wits.

MR. CALDERHEAD: There maybe a misunderstanding.

THE CHAIR: Oh. I'm sorry. I thought… (talking in background)

MS. MCNEIL: No. I'm sorry. I'm not finished my questions. I…

THE CHAIR: Oh.

MR. DOUGLAS: Oh. I thought (laughing) she

was saying she was done her questions.

THE CHAIR: Showing my enthusiasm. (laughing)

MS. MCNEIL: So if I could just have a moment.

MS. FRANKLIN: Actually could we take a break?

THE CHAIR: Do you want to take a break Ms…

MS. MCNEIL: Yes. Why – this would be…

THE CHAIR: Yeah. And – and – and…

MS. MCNEIL: …a great time to take a break.

THE CHAIR: I – I – I take it you – may I ask how long you might be then?

MS. MCNEIL: I think I'm just wrapping up. I have some – a few more questions.

THE CHAIR: Okay.

MS. MCNEIL: Maybe half an hour. 45 minutes.

THE CHAIR: All right. It's 3:20. Be mindful please. We'd certainly want to have – release Ms. Hartwell today and certainly Commission counsel may ask questions and so may Provincial counsel so…

MR. KINDRED: I'm actually…

THE CHAIR: …please…

MR. KINDRED: I'm actually having some redirect but I don't imagine it's going to…

THE CHAIR: Yeah.

MR. KINDRED: …prevent us from finishing…

THE CHAIR: So please, Ms. McNeil, please be tight. I mean I think we're getting a little repetitive here. I don't know how many times Ms. Hartwell has to agree with – with you on these points you know referring to further documents and putting her - to her that these are true and having her say, "Yes," doesn't add weight, I don't think, to the case if that's helpful.

[RECESS 3:23 P.M. – 3:35 P.M.]

COURT REPORTER: Okay. We're on. (laughing)

MR. CALDERHEAD: That's all there is to it?

BY MS. MCNEIL:

Q. Thank you. (laughing) I'll know for next time. (laughing) So there was an Ombud's own motion review and that was when the Ombuds office – and that was a review of both Health and Community Services and (talking in background) that came forward during your time as maybe Associate Deputy Minister that – when Government's response, the Department of Community Services' response, and I

didn't know how familiar you were with that but I thought that maybe in the course of your work with the Road Map on – otherwise you would have been responsible for the Department's response to that review. Does that ring a bell?

A. It – it's not ringing a bell but if there's a document you could refer me to then I could…

Q. Okay. So…

A. …see if…

Q. …it's…

A. …it does.

Q. …in Volume 5 at Tab 1 and Page 1,583 of the joint book. Volume 5.

A. Okay. Thanks.

Q. 1,583 is the executive summary and if you flip back one page you'll see it's…

A. Okay.

Q. …a confidential Office of the Ombuds consultant of the report. March 2012.

A. Yes. I see it. Thank you.

Q. And the focus of this Ombuds report – it – now that you've had a chance to look at it (whispering in background) does it seem like something that you were involved – would have been

involved with?

A. It's not ringing a bell but I – I may have been involved in providing some feedback once it was received. Again I – I don't – I – I can't recall.

Q. Okay.

A. What month I was actually appointed in – in 2012. I think I would but I – I don't. Yeah. So.

Q. Well maybe if I tell you a little bit about the problem that's – was raised in that report. It might ring a bell and that was a report where the Ombuds found that – that people with disabilities were being unnecessarily caught up in the Criminal Justice System and inappropriately placed throughout Services for Persons with Disabilities and that there were bottle necks in supports in the system. Does that ring a bell?

A. Again the report doesn't but the issue certainly rings true.

Q. Okay. And this would have been at a time when there were still, being used, that unclassifiable category in 2012 before you had your new level of support the DSP brought in, its new Level of Support Policy, so that the Ombuds also referenced that phenomenon of unclassifiability as

well as creating a – a gap in the system. Does that ring a bell or is that consistent with your understanding of – of some of the problems, the systemic problems, that your Department was facing?

A. Yes.

Q. Okay. And the – the Ombuds also identified that some of the bottle necks were caused by lack of physical placements, like just lack of – lack of placements for people to within the SPD Program. Does that – and – and – and would it be true to say that from your experience too that that is a problem? We've – we've already talked about this at – in terms of finding places for – for some people that it – that it requires basically a vacancy in a small option home kind of thing before and even then it may not even be a good match for that person to be able to – to have a place to go to?

A. Yes.

Q. Okay. So – and this would have been a time in 2012 when that – when there was something called a Complex Case Committee. Are you familiar with that committee?

A. Yes.

Q. That – that name? The Complex Case

Committee?

A. Yes. I know the name.

Q. And that Complex Case Committee was – was put together because of the gaps in services between health and Community Services where people were being told by one that they weren't eligible and told to go to the other and the other was saying that they weren't eligible either so they sort of fell between the cracks? If we can put it in those terms. Is that – is that a fair representation of your understanding of the problem?

A. Yes. I – I can see why that would have been one of the reasons why there'd be a Complex Case Committee. I would – I – I don't know what the particular motivation is but my understanding is that they looked, not just at where there were gaps, but where there were inconsistencies or where there were situations that were so complex, so novel, that really both Departments had to sort of bring all of their resources to bear.

Q. And when you say the situations were so complex is it – is it complexity? Is it fair to say that complexity, at some level, was one of institutions? That there were multi parties involved being hospitals, Health Authorities,

Health Department, and Community Services. Was that the nature of the complexity?

A. It maybe that there were lots of players including the different authorities and departments for certain. Often it may have been the complexity of the client's own situation. Not just limited to their disability or their own particular needs but sometimes family situations, family trauma, other things that are happening in peoples lives sometimes led to a level of complexity with you know when you – exacerbated by disability then it really required a – a different level of intervention.

Q. So you're identifying the complexity within the individual but you'll agree with me that another aspect of the complexity was this kind of – the multi institutions that were involved in – and – and perhaps as well, and I think this has been talked about already, the lack of communication at times between those different players?

A. Oh yes. They're big complex systems that are involved for certain.

Q. And you'll agree that communication has been a real challenge and a real…

A. Yes.

Q. …obstacle to the people getting the services that they needed at the time in a way?

A. Yeah. I would say communication and collaboration have been challenges in the past and continue to be something that are challenges. Absolutely.

Q. And one of the things that I wanted to ask you about, and it's identified in this Ombuds report, is that when people are waiting for services, when there made to wait in inappropriate settings for services like you've already talked about acute care settings in hospital, that that can in fact make the problem worse. That people can deteriorate in those settings and – and the complexity on the individual's side can be – can even increase if they're not provided…

A. Yes.

Q. …with – with timely access to the services that they need. So – and in fact the Department, you'll – and you can see that the Department filed a response and it didn't dispute any of the Ombud's findings, but it – it did point out, and we won't go through - in the interest of time we won't go through that right now as to what

– with the problems - the response was going to be, but the – the – the Department was clearly aware of this. That this continued to be a problem in terms of the gap in – in services and I think you indicated earlier that – that you've indicated that that notion of unclassifiability is no longer acceptable within your new kind of the – the transformation agenda or approach that's being taken by the Disability Supports Program. Is that fair to say?

A. Yes.

Q. That you've identified that – that this notion of people being unclassifiable is…

A. Yes.

Q. …not one that you use? Okay. And that the – the flip side of that is that Government, whether it's health, Community Services, or some combination of the two is accepting that it has a responsibility to provide the appropriate supports and services for people with disabilities who are – who are needing them to – to live in the community. Would you agree with that?

A. Yes. We've committed to supporting people to live in community.

Q. And so – and to a certain extent that

Complex Case Committee was an acknowledgement that Government had a responsibility. That it couldn't just leave people in hospital beds indefinitely or – or kind of take the position that they were – because they were unclassifiable that they weren't responsible to provide them with assistance?

A. Yes. I – among other things I would say yes. That's true.

Q. But one of the limitations of the Complex Case Committee of course is that it doesn't have resources. It doesn't have a budget to create new – new small options. It can't go out and – if it has a client that – that needs service, for instance, create a new small option outside of the – what – what the program limitations are in terms of the options that currently exist?

A. No. The Complex Case Committee is made up – well I should say there have been different versions of Complex Case Committees but certainly the ones that I'm familiar with have been made up of senior individuals who have the ability to draw resources and make things happen with our existing system.

Q. Do they have a separate budget? Do they have their own budget line?

A. No.

Q. So this Board has heard evidence from a couple of people from within the Nova Scotia Health Authority that wait times for people in acute care beds is still very much a significant problem…

A. Mmm.

Q. …for them and that they're not – they're not able to move people out of hospitals in a timely basis. Were you aware of that?

A. Yes.

Q. Okay. To a certain extent that Complex Case Committee is kind of a canary in the coal mine, isn't it? It tells us that there's still a problem out there because you actually need this committee to kind of resolve issues that – that otherwise people would be – would not have access to service without that Complex Case Committee?

A. Yes. I think there will always be a requirement for a group of individuals who can act quickly and decisively whenever there are challenges in complex systems so yes. I don't see that going away. I – or it may take a different form but we rely heavily on the relationships that we have so that we can make that – make something happen quickly when it – when – for an individual

when we have that ability.

Q. M-hm. But in fact the individuals that the Complex Cases Committee is serving are individuals for which things are not happening quickly. That's the whole – that's the whole problem is that there are people who have been stuck for sometimes period – long periods of time without being able to move forward?

A. In – in some cases. Yes. There – that would be the characteristic. Yeah.

Q. I just had a few questions about – and it flows from some of your discussion I think both in direct and in cross examination but more particularly on the impact of – of the moratorium, and I think going back to the statement in Hansard from the Minister of Community Services where he said, "Well I don't know if there's a waitlist but there's certainly probably a backlog as a result of the moratorium," so that was one of the impacts of the moratorium. Certainly in the beginning with respect to small options placements was to create a backlog. Correct?

A. Yes.

Q. And – and eventually there were – there were a number of waitlists that developed but they

developed regionally, didn't they, within the Disabilities Support Program as we now know it?

A. Yes.

Q. Throughout – throughout the 2000's?

A. Yes.

Q. And so that was a – an area that we see that again the Department of Community Services, in 2010 for the first time, created – started to begin to create a centralized system of a – of a waitlist. Correct?

A. Yes. I'm not sure exactly when the beginning date was but…

Q. Does that sound right?

A. Yes. That's about right.

Q. Okay. And it – it – the – the purpose of the – of the – of the waitlist was to help the Department to track what the demand was for the – the – the different services that they were offering at that time. Is that correct?

A. It was used to – yes. Track the demand but also to expediate I guess the best decisions that we could make about who was going to be able to be placed and who wasn't.

Q. Okay. And before someone got on a waitlist for the Disability Supports Program they

had been assessed as a person in need and found to be eligible for the program before they could actually put their name on one of the…

A. Yes.

Q. Yeah. And so wait times I think we've identified that there's - the only uncapped program is the – the Flex Program, what used to be known as the Direct Family Support Program, and the other aspect to that is that's the only program to which there isn't a waitlist? Correct?

A. Correct. Yes.

Q. Yeah.

A. And the Extended Family Support part. Yes.

Q. All right. And so just to clarify the – the – the wait times on all the programs, and it's not just the small options homes, on all the programs is a function of the cap on funding that affects the Disability Supports Program?

A. The waitlist is a function of, yes, our budget – our – our budget ability to create new placements at any given time. Yes.

Q. Right. So if you had uncapped funding there wouldn't be that, just as we've seen with the Income Assistance Program, there isn't a waitlist

because there's no cap, an important cap, on funding?

A. No. I – I wouldn't go that far to say there wouldn't be a waitlist because the services are so individually based. That sometimes the wait has to do with a matching that we had talked about. So it's about the right place for someone and sometime – so – and I would say our experience, we have some experience as of late where the challenge hasn't been access to resources, I'm thinking of some particular cases where the challenge has been finding staff that we can hire and train to provide particular support to someone who needs 24/7, one on one, actually two on one care. So sometimes people are on a waitlist because the complexity of their situation maybe that we don't have the option available to them right now. So even if – even if there a – a you know an infusion of unlimited money into our system there are still some things that will take time that might – might require people to wait until the appropriate placement is found.

Q. But the waitlist, and I'm going back – we have documents and I'm not going to go to all the different documents that are in – but we have documents about the waitlist with the Disability

Supports Program's system in approximately 2008…

A. M-hm.

Q. …starting with briefing memos and then going onto various documents and they reflect a continued growth in the waitlist. The waitlist continues to – to mount higher and higher. We don't see reduction in the waitlist.

A. There is – yeah. I agree. There is no doubt that the demand for the program has been steadily increasing and the waitlist is one indicator of that.

Q. Okay.

A. Yes.

Q. And there is – the – we – we could go to the most recent document with respect to that that's in the record in – just – that's 6A, Tab 67, you have it there handy. (whispering in background) I think I have the right tab. Is that the Adult Service of May (whispering in background) – Volume – yes. I'm sorry. We had to put in a different…

MR. CALDERHEAD: Right.

MS. MCNEIL: It should be up there but it's a freestanding Exhibit. Yeah. I was just going to get it for the witness. I think I can see it right on top there.

MR. CALDERHEAD: Is that it?

BY MS. MCNEIL:

Q. It didn't reproduce well so we gave it its own…

A. Okay.

Q. Like for some reason it has this in it.

A. Is that because that fell out?

Q. I don't know.

A. Okay.

Q. I can give you this book.

MR. KINDRED: Sorry. Is that 6A, Tab 66?

MS. MCNEIL: Well the witness' copy says it's 66 and 67 so…

MR. KINDRED: Okay. (whispering in background)

BY MS. MCNEIL:

Q. And I don't know how great it's going to be because it's not in colour but we'll make the best of it. It's – and there's obviously no joint book numbers on these pages but it's – but it's Page 52 of the – the document.

A. Okay. It says,

"Summary of program utilization."

At the top?

Q. Exactly – exactly.

A. Okay.

Q. And you see the that there are two columns? One's a waitlist and the other is the case count and…

A. Yes.

Q. …it gives us a graph representation, it's not numeric, but it gives us a sense about how the waitlist looks for each of the different programs. Do you see that there?

A. Yes. I do.

Q. And have you seen this document before?

A. Yes. I believe I have seen this document before.

Q. And so you'll agree that it's – that it shows that there are waitlists across the board except for as we've identified the Flex at Home Program?

A. Yes. That's correct.

Q. And that the largest waitlists appear to be the small option homes?

A. Yes. That's correct. (whispering in background)

Q. And – but that both the ILS, which is

usually identified, doesn't require a you know a – a residential option, it's more the nature of services, both – both – it – it has also a waitlist. Doesn't it?

A. Yes. It does.

Q. And in terms of numbers I'm going to – I'm going to look for that but – or – yeah. To try and get it – the most recent numbers because I believe that's in here as well it's just the way the documents are organized. It's not – there is a standalone but I – there's one in here as well. And you're – but you'll recall that – that there was a presentation I believe you gave to the standing committee in 2015 where you identified the numbers on the waitlist as well. Do you recall that?

A. I recall presenting to the standing committee.

Q. Okay. And do you recall providing information about the size of the waitlist to that committee?

A. Sure I did. Yes.

Q. Okay. And do you recall saying at that time that you felt that the waitlist was maybe a bit artificially small? Like the numbers don't necessarily reflect all the people that might

actually be needing the services of this program? (whispering in background)

A. Yes.

Q. And the reason for that, and there maybe more than one reason, but one of the reasons is that there is a sense in which parents are looking after their – or – or accommodating their adult children or – or family member with disabilities in their homes in situations which are – aren't – are not ideal to where they could benefit from the services of this program in another area?

A. Yes.

Q. And another way in which it might be artificially small is that there's a screening process that workers do with the Disability Supports Program where they specifically warn people who call in about the nature of the wait times and the waitlist and that that also, you know in terms of managing expectations as you have – have identified also, maybe discouraging some people from putting their names on the waitlist when they learn about the wait times involved?

A. Yes. I'm sure that there are people who choose not to go on the waitlist because they're not sure when they'll get service. Yes.

Q. And one of the unfortunate parts about the wait – waiting list is it actually doesn't give us any hard data about the times that people are told well it's going to be exactly this or exactly that like there's a great deal of uncertainty, isn't there, about when and what kind of service is going to become available to someone even when they are put on the waitlist?

A. Yes. There is – there is uncertainty and I – I – I don't believe we would ever be able to get to a point where we – if – probably somewhere exceptions when what someone wants is quite specific but that we would also be able to with specificity say you know your wait would be three months and a week. It – it's probably much more fluid than that but I – ideally the new system that we're building will allow us to have a better handle on who's on our waitlist, what their expectations are, and what some of the probable – the possibilities for placement might be. Then we can do a better – better sense of assuring people that you know giving them a sense of a timeline.

Q. And that's in the development process…

A. Yes.

Q. …you've identified? Okay. And – but in

the meantime the Department's identifying that this growing waitlist is a – is a negative performance indicator in terms of your accountability reports. Is that correct?

A. Yes. It is – it is an expression of a need that we are not meeting.

Q. And that – the flip side to the waitlist like partly it's timing but also it's people being left in inappropriate settings longer than the need to be there. Isn't that correct that that's one of the implications of the waitlist?

A. Yes. That could be – there could be people on the waitlist who are in inappropriate settings and they're probably people who are in inappropriate settings who are not on a waitlist have not – have a not identified necessarily at this point they want to change but with some support maybe they would identify they would like to change.

A. And so these are the group of people who are the non-exceptional cases. So you've identified that there's a few exceptional cases that make it to the top of the board and yet a – a – a new small options created but for the vast – vast majority of people who apply for this program they end up on a

waitlist. Correct?

A. Yes. The waitlist for small options is our largest waitlist for certain.

Q. But the – regardless of what the nature of the service is for the vast – vast majority who apply, they're not looking for Flex at Home, they're on a waitlist?

A. Yes. That's right.

Q. And you'll agree with me that the longer people – people's needs weren't met, and we see that in the numbers now that the Department is tracking since – since 2010, the more intractable – intractable the problem becomes because it becomes larger and larger as the time goes by?

A. It becomes larger in – in the sense that – well I – it's – the reason I'm hesitating is that we are making small inroads in reducing the number of people – or being able to move more people into community so in – in that sense we are managing some of the problem but you're correct in that the problem becomes larger the longer that we have people who are living in facilities that they do not want to be in and are probably inappropriately placed.

Q. But – but you know we're roughly at about

1,500 on the waitlist. Would you agree with that?

A. Yes. It's somewhere around there.

Q. And when you – when you first started tracking these numbers you were just under 1,000 people on the waitlist. So that's a – a 30 percent growth in the space of eight years. Correct?

A. Yes. That's correct.

Q. And so that waitlist represents the fact that in – that despite the transformation process and the Road Map and the efforts that you've identified to move people to community that there's large numbers of people with disabilities whose needs are being neglected at this point. Whose needs are not being met by the Disability Supports Program who – who are eligible, qualified for the service, need the service but aren't getting it?

A. Yes. As I've said that's the whole reason that we are focused on trying to change the system.

Q. And I guess going back to what I was saying before really given that we've had a moratorium since 1995 the magnitude of the problem right now in terms of the waitlist wouldn't you agree with me that it is connected to the very – very long time that there's been kind of a failure to meet the actual needs of people with

disabilities who need this service?

A. I think that the moratorium is connected to the fact that we do not have the number of placements in small options that our – our clients and our system is telling us we need so while we've been developing a – a menu of services it is not as robust as it should be and that's probably in large part because for many years there was a moratorium that we were not creating more small options on a regular consistent basis. Yes.

Q. And now the modern form of the moratorium is this cap on funding and it's applying to more than small options and you know what we might once have thought of as a moratorium on small options has now morphed into a cap on funding on all aspects of the program (whispering in background) but for the Flex. Correct?

A. I – I continue to like take issue with the use of the word cap because what is – what is – in actuality is that there are budget constraints that face the Government and so while this program has actually doubled the budget over the last 10 years. We have not been able to increase the capacity significantly so we can keep adding money or we can – in – in an incremental way or we can

significantly reform the system so that we are able to on a go forward have a sustainable system that has increased capacity. So you know I don't envision a world where Nova Scotia is suddenly going to have 100's of millions of more dollars that are available to – to put into our programs or any other programs. In the prioritization exercise that Government has to do we have, through some very diligent work, been able to demonstrate that investment in DSP Program is the right thing to do. So I just don't see it as a – a – I think using the word cap is – is not quite accurate. Is – we – this Province has budget constraints and we are doing everything we can to make sure we're getting as much funding in that envelope.

Q. And – and I think you did suggest some alternative wording you had in your earlier evidence and I apologize I forget what – what was the alternative wording that you used?

A. I don't remember either. It probably was our budget allotment or a budget allocation. That's what we get.

Q. Budget allocation I think. Okay. So – so – and you'd agree with me that this budget allocation is having implications today for people

who are unnecessarily in acute care hospital beds or whether they're in forensic unit institutions or – or regular hospitals who are unable to you know get the residential supports they need to move out of those acute care facilities?

A. Yes. The budget allocation does influence the – the support services that we're able to provide.

Q. So those are all my questions for this witness. Thank you, Ms. Hartwell.

A. Thank you.

[END OF EXAMINATION BY CLAIRE MCNEIL AT 4:07 P.M.]

THE CHAIR: Thank you. Thanks, Ms. McNeil. Commission counsel?

MS. FRANKLIN: I have no questions.

THE CHAIR: Thank you.

REDIRECT BY KEVIN KINDRED BEGINS

MR. KINDRED: I have a few and I'll…

THE CHAIR: Sure.

BY MR. KINDRED:

Q. …try to be quick with them. I'll be flipping around my – my notes but starting with the – maybe the point we ended on. You were asked questions about the cap and you instead used the language budget restraints and I think you used the language budget allocation and the question was put to you so instead of cap we would say budget allocation. I just want to ask is – is there any Government program that you're aware of that doesn't operate on the basis of a budget allocation?

A. No. We are expected to work within our budget. The – the questions that I was asked earlier about I guess comparing this to ESIA, ESIA has a budget allocation.

Q. Right.

A. And so we have not been, in the last decade that I've been around, in a situation where ESIA for example has overrun its budget and therefore we had to make decisions about how we

deal with that so – but I – I have other programs that we operate where we exceed our budget and our expectation from Government is that we are managing within our budget envelope and that if we are looking to increase the budget to either meet pressures or to do something new there's a budget process that we go forward to put that forward to Government but…

Q. Okay.

A. …we are expected to manage within.

Q. So I mean just to nail down then the cap versus budget allocation is that ESIA is not a capped program?

A. That's right.

Q. But it like everything else has a budget allocation?

A. Absolutely.

Q. Okay.

A. Yes.

Q. So my question I guess related to the budget you were asked about the Complex Case Committee, I guess you've talked about the various iterations of that committee, and specifically you were asked does that committee have a – a – a budget line – a budget with which to create a small options

home and you said, "No. That committee does not have a budget."

A. That's correct.

Q. Okay. Is it fair – are you aware whether there are any cases that have arisen through that Complex Case Committee that have resulted in the creation of new small options homes? It – if – if…

A. Yeah.

Q. …the answer is you're not aware that…

A. It's not that I – I believe – I believe that to be the case. I can't call to mind the details of that but certainly the intention behind the Complex Case Committee is that, I think I used the phrase both are part – both Departments bring all their resources to bear and there are – there are times when it is – actually the – the case that I mentioned about the hiring of additional staff that would have resulted in a quite unique situation that – that wouldn't necessarily have started as a small option would have resulted in the one person who needed the significant around the clock support, having two on one care, which was hiring five – training and hiring five people but in theory, in situations like that, if we were able to stabilize that situation that could

possibly morph into a small option situation so that there could be roommates and – and so if that was a possibility, for some people its not, but if that was. So those are the – the kinds of things that we would – both Departments would jointly say here's what we can bring, here's what we can bring in if there's – and – and try to forge a solution between the two.

Q. Okay. And so that – you – you confirmed again that committee doesn't have a budget available to spend. Does that mean that that – the work of that committee can't result in decisions that involve spending money?

A. No, because the financial decision makers are generally at the committee table.

Q. Okay. You were asked about the Flex program and the – the creation of the Flex Program and specifically in the context of a recognized problem with aging parents and the problem that that creates with programs designed around living at home. Do – you'll recall…

A. Yes.

Q. …those questions?

A. Yes.

Q. So – and it was put to you in the – in

the context of you know there's been an emphasized – there's been an emphasis on this Flex Independent Program – sorry, this Flex Program despite this aging parent problem so my question is I guess why has there been an emphasis despite knowing that the – this aging parent problem – I'm sorry. You've mentioned the problem of aging parent problem so you know what I'm talking about? So in light of that problem and that known problem why has there been an emphasis on that program?

A. For several reasons. The first is it's a program that many people want. Again it's not just parents. Sometimes it's other family members, sisters and brothers would be the next largest group probably, but there certainly are other extended family situations that – that we have or support but there are a lot of people who want that. They want their family member to remain living with them. They want to have control over, and ability, to really create the life that they want for them. So it remains very popular in the sense – and the other reality is that it's not all at one level. There's a whole range of people who are in that program so there's some people who are receiving quite minimal supports large – that they largely

use for respite and so the person is living quite independently and just some of the respite supports. And then there are others who are again getting the extended family and are hiring their own behavioral interventionists or hiring some of their own supports that they want to provide in their – in the family setting. So it is – it – it is quite a mix. You know one of the other reasons why it's desirable is that it is so person focused that it – it really allows – you know family members are, generally speaking, the best advocates for clients who aren't necessarily able to advocate for themselves and so it just allows a level of fit that is hard to replicate in – in any other – any other setting and then I guess from the Department perspective it is you know it is a program that we are able offer to people sometimes knowing that it is a temporary measure until a longer term situation can be found. So it does provide a bit of relief while there are people who are looking for something down the road.

Q. Okay. Thank you. You were asked a number of questions about the assessment system. I guess I asked you some questions but specifically on redirect you – on cross examination you were asked

questions about the flaws and problems with the assessment tool. You recall that…

A. Yes.

Q. …portion of the cross examination? Okay. And one of the specific things that was put to you in the context of a larger – of a longer question it was referred to that the tool was defective and that was a statement in the context of the longer question that you then went on to answer, and I just want to be clear on the record, looking at the tool, at least for its – its current purposes, would you agree with the characterization that the tool is defective?

A. I wouldn't agree – no. I wouldn't agree necessarily that it's defective. It's not optimal and it – we are well aware of its shortcomings. It does provide some information that is of use but it's not the definitive information tool that we – we need it to be. So the fact – the fact is we're continuing to use it which we wouldn't continue to use if we felt that it was completely defective. We need some way of being able to assess and provide some guidance in the supports that are provided but we need to do so with eyes wide open on its limitations.

Q. And related to that question a – a report was put to that got marked as Exhibit 71. I don't think you need to refer to it but just for the record from HSRI, and John Agosta, again are you looking at that assessment tool?

A. Yes.

Q. And so my question, and you talked about some of the flaws that – that Agosta or the – that the report identified. In the context of that report was there a best – a – a best tool out there identified that the Province could adopt, a best practice somewhere in another jurisdiction, or what was the recommendation as to what tool the – the Province should adopt coming out of the report?

A. I believe he came up with the same conclusion that we reached independently which is there are no – there is no best tool. There is no one tool that will meet all of the needs of our jurisdiction and – and we have been looking and talking with other jurisdictions. So there – if there was one particular answer we would have moved in that direction but we were trying to find a tool that best meets our needs and will best align with our future direction.

Q. Moving off the assessment piece you were

asked a – a – quite a few questions related to the Road Map.

A. Yes.

Q. One of which related to the costs of – there was a whole area where you were asked about the cost of maintaining the existing system and the new system. So in that area you were taken to some references in the Road Map to the effect that they – of the increased – the increased costs of a new system would be offset by the expansion of – sorry. By the cost savings of shutting down an old system. Do you recall that general comment that…

A. Yes.

Q. …you were taken to? Okay. And you were asked the question once or twice they both be using the words the – the increased costs would be off set or set off and I just wanted to get your understanding of like the nature of that set off. Did you understand that to be a reference that the cost of the new system would be completely accounted for by the cost savings of shutting larger facilities or…

A. No.

Q. …set off in an incomplete way or some other…

A. No. I did find it – I did find it confusing. What I believe – I – I – but I don't believe there is a statement or should – I certainly don't believe – I don't think that – that we would agree that we will be able to completely off set the cost of a new way of working with our current costs. That our intention would be to try to create a system that is obviously sustainable but the reality – the reality is that people who – so individualized that there's no easy way to say that because we have five people living in a larger facility and we transfer those five people to – to two small options that we'll be able to replicate what they had and that we'll be able to do so in – for the same amount of money because we're not just aiming for bear minimum. Our commitment is to have lives of quality, choice, inclusion, all of those pieces and so it's not just that we will be able – we don't want people to have to just make do compared to what they had. We want it to be better than what they have and so in order to do that and to meet the vast you know the diversity of – of people's needs and expectations. It will be to – it will undoubtedly end up being a – a much greater investment.

Q. Okay. You were asked some questions about the end of the moratorium. I – I think I'm now into Mr. Calderhead's questions. You were asked some questions about the end of the moratorium and your – and your statement about the signal for that with the budget of two years ago and in a question that was described as – so the signal to you or your signal of the end of the moratorium was the budget two years ago? And I just want to be clear you, as Deputy Minister responsible for – for the Department of Community Services, was the budget two years ago your first indication that – that the moratorium was – was ended or did you mean it in a different way?

A. Well speaking from my own role since I've become Deputy Minister I have not in any way advocated or promoted the continuation of the moratorium so you know where I was able to – if I became aware of situations I would make sure that we were continuing to have conversations about what our future small options would look like. What I believe the budget several years ago did is it provided a signal, proof that I could actually say, "See," it's not just that we're going to – to – to – we're going to have small options. We actually

now have the funding to actually do that in a planned way. So I certainly was part of many conversations about the need to have a robust continuum and that always, from my personal point of view, included small options.

Q. You were asked a question about the – in – in the general area of the – the budget of D – DSP and the increase that you described in the – the DSP budget and you were asked that largely reflects increases in salaries and you agreed with that characterization. Do you recall that?

A. Yes. It – the increase in our DSP budget has been in the cost of providing services, and we would call them budget pressures, is the cost of operations increasing and the largest part of operational costs are staffing costs.

Q. Okay. And I just – when you say staffing costs I want to be clear whether you're talking about staffing costs of DCS staff or staffing costs related to the services provider?

A. Service providers. Not DCS staff.

Q. Sorry. My – my questions are just written all through my notes so I need a moment here. I would take you to one of the documents that was introduced during the cross examination. I think it

was marked as Exhibit 70. It's the annual accountability report from fiscal year 2000 to 2001. You've got it there?

A. I have it. Thank you.

Q. And the specific statement – you were asked a number of questions that led up to being asked about a specific statement that is on Page 6 of that document. If you could turn there and the statement that you were asked about was – was this statement,

> "Over 90 percent of the Department's services are legislated and under these Acts the Department is required to provide services to those individuals and families who are eligible for assistance regardless of available program funding."

Do you recall being asked questions that focused in on that statement?

A. Yes.

Q. Okay. So I just want to be clear what the implications of this statement from 17 years ago,

in a document that you didn't write, but if I were to put to you that this statement should be interpreted to mean the – with respect to the services provided by DSP that those are services which the Department is required to provide to individuals and families who are eligible for assistance regardless of available program funding. I'll put to you that if that were suggested that that's what this statement means…

MR. CALDERHEAD: Objection. My friend repeatedly objected when we were asking witnesses how they interpret someone else's document and – and both Ms. Mullin and Mr. Kindred objected strongly to reinterpret someone else's document. Given that Ms. – Ms. Hartwell has not written that document my friend is now asking exactly the same question.

MR. KINDRED: I'm certainly entitled to ask to clarify when it was put to her in an interpretation suggested directly by my friend which I believe to be incorrect interpretation.

MR. CALDERHEAD: I – I asked for no interpretation.

MR. KINDRED: But certainly an implication was left from the series of questions asked about

this document and what I'm going to do is put to her…

THE CHAIR: Go ahead.

MR. KINDRED: …what I think…

THE CHAIR: Go ahead, Mr. Kindred.

BY MR. KINDRED:

Q. Okay. So I'm going to put to you that if I – if someone suggested that what this document means is the Department is required to provide DSP services to individuals and families who are eligible for assistance regardless of available program funding. I'm going to ask you is that statement consistent with your understanding of the Department's obligations with respect to DSP?

A. No.

Q. Okay. I think. I'm happy to leave that there.

A. Do you want me to elaborate?

Q. Well I don't want to cut you off if you – if you feel like you need to elaborate.

A. No – no. I – I don't under – I – I don't understand why this sentence is written the way that it is. It – so you know I was hung up in looking at how much the – the – the measure – how much of the Department's services are legislated.

I don't agree with that either but I certainly don't agree with the overall – the – the last part of the sentence either.

Q. Okay. As a description of the DSP Program…

A. Particularly for DSP. The DS – yes.

Q. Okay. I just need a moment to confer with Ms. Mullin. I think I have just one final question. So you were asked by Mr. Calderhead a number of questions related to your use of the term aspirational and…

A. Yes.

Q. …in some of those questions there was sort of compressing aspirational versus commitment so just to be very clear when you described the work that the Government has undertaken to – for its transformation of the DSP Program would you describe that as a Government aspiration or a Government commitment?

A. The Government is committed to doing things that we have indicated and so that's moving forward on the closures, creating the community-based options, including the supports that are required. All of the areas that are – like were committed to do that. We have aspirations around

the time frame for that and we have aspirations around how that can be achieved in a way that – that meets the spirit of the Road Map which is about putting the client at the center but we are absolutely committed to taking the actions that would make that come – become a reality.

Q. Thank you. Those are all of my questions.

THE CHAIR: Okay. Can we call it a day? And a month, I guess.

MR. DOUGLAS: A month, yeah. Sure can.

THE CHAIR: All right. Thank you all. Thank you, Ms. Hartwell.

MS. HARTWELL: Thank you.

[ADJOURNED FOR THE DAY AT 4:26 P.M.]

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I hereby certify that I have transcribed the foregoing and that it is a true and accurate transcript of the evidence in a Nova Scotia Human Rights Board of Inquiry Hearing of **BETH MACLEAN, JOEY DELANEY, SHEILA LIVINGSTONE V. DISABILITY RIGHTS COALITION V. PROVINCE OF NOVA SCOTIA V. NOVA SCOTIA HUMAN RIGHTS COMMISSION (DAY 34)** taken by way of electronic recording in Halifax, Nova Scotia on August 10, 2018.

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September 24, 2018