

**Appearance before the
House of Commons Committee on the Status of Women**

December 12, 2017 from 11:00 a.m. to 12:00 p.m. EST

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Prisoners' Legal Services

1. Thank you very much for this opportunity to appear before this Committee, and thank you for initiating this study on Indigenous women in the federal justice and correctional systems.

2. I am the executive director of Prisoners' Legal Services, the only full legal aid clinic for prisoners in Canada. We provide legal services to federal and provincial prisoners in British Columbia on issues that affect their liberty rights under s. 7 of the *Charter*, as well as on some health care and human rights issues. In the past year, we have assisted prisoners with 2,462 legal issues including conditions of confinement, solitary confinement, parole and involuntary transfers to higher levels of security.

3. We provide legal services primarily over the telephone. Women prisoners do not access our services as readily as men do, and for this reason, we conduct an in-person legal clinic every two weeks at the Fraser Valley Institution for women.

4. In preparing for today, I attended our clinic at FVI on November 28 and met with some Indigenous women in the maximum and medium security units.

5. On the day I visited, all of the women in maximum security were Indigenous. They told me the design of the units meant there are too few women to interact with (the max units hold approximately six women on two sides), which makes them feel isolated and leads to conflicts. One prisoner said: “Officers look at you like you’re in a zoo, you are not treated like a human being.” The max units are behind glass walls with the officers on the other side of the glass. Prisoners commented that the officers do not interact with them except for security purposes.

6. Indigenous women in both maximum and medium security talked about a lack of trust between Indigenous prisoners and staff. They feel there is a lot of racism and discrimination against them by officers. One woman said: “We build relationships with each other, and they accuse us of being in a gang when we’re not. They separate people who had bonded and supported each other.” The women I spoke with gave examples of Indigenous prisoners being maxed for less serious allegations than white prisoners.

7. They also felt that staff do not really apply Aboriginal Social History and that *Gladue* factors are used against them in their security classifications.

8. The women I spoke with felt there were not enough Indigenous programs at FVI, especially in maximum security. There is only one Elder who is stretched too thin. They feel it isn't possible to deal with their trauma and abuse at FVI and that programs just open up wounds and make it more difficult to function in the security-driven environment. "That isn't healing", one woman said. Many Indigenous women stay in prison until their statutory release dates and feel set up to fail in the community without enough support or healing. They said they need more one-on-one trauma and abuse counseling with mental health professionals from the outside.

9. One woman said that they need more Indigenous run healing lodges. She said "the Okimaw Ohci healing lodge in Saskatchewan is great. Sixty percent of the staff are Aboriginal and they understand what it's like to be on reserve. People who work here aren't sensitive to that. They tell us to get over it."

10. Many of the women I spoke with talked about needing more access to their kids and families, and connections with their homes and bands. Many talked about not having enough money to even be able to phone home. They talked about the barriers to having visits if

family members have criminal records, and not being approved for temporary absences home because it's too far.

11. The women also felt they had too few opportunities for job skills training or for education beyond grade 12.

12. I hope that this committee will seek out the voices of Indigenous women prisoners during the course of this study.

13. The over-representation of Indigenous prisoners, and most significantly, women Indigenous prisoners, is in large part a result of the multi-generational trauma Canada inflicted on Indigenous people through over 100 years of residential schools. With the Truth and Reconciliation Commission's report, Canada has finally acknowledged the genocide we committed against Indigenous people by forcibly taking children away from families to remote locations and subjecting them to programs designed to destroy their pride and self-respect. Canada is also responsible for taking land and resources from First Nations and then denying sufficient resources for Indigenous communities to be able to provide for themselves.

14. The over representation of Indigenous people in prison is a continuation of the genocidal practice of residential schools – it continues to separate parents from their children and it fails to create an environment of trust and respect where healing might be

possible. Many children of incarcerated Indigenous mothers will be placed in foster care. As stated by an Indigenous woman parolee in the 1990 report *Creating Choices*, “How can we be healed by those who symbolize the worst experiences of our past?”

15. *Creating Choices* also notes that the Indigenous people consulted by the Task Force on Federally Sentenced Women “stressed that the concept of punishment is alien to the Aboriginal culture. The focus on restoration of harm and finding direction through teachings and spirituality in traditional culture is diametrically different from the punitive models” of western culture.

16. Despite the legal requirement that *Gladue* factors, or Aboriginal Social History, be considered by sentencing courts, CSC and the Parole Board, Indigenous people, and especially Indigenous women, are imprisoned more and at higher levels of security and for longer portions of their sentences than other Canadians.

17. CSC is required by s. 18 of the *Corrections and Conditional Release Regulation* to classify prisoners to minimum, medium or maximum security according to three criteria – escape risk, risk to public safety and the degree of supervision and control required within the penitentiary. This third factor is known as the “institutional adjustment” rating within CSC.

18. Of course Indigenous women tend to have high institutional adjustment ratings, given that their imprisonment by Canada is an extension of the genocidal policies of residential schools. It would be next to impossible to have a low rating for institutional adjustment in a security driven prison environment that perpetuates violence, and does not achieve the foundation of trust and respect that is necessary for healing. It is significant that all of the women who have been declared dangerous offenders in Canada are Indigenous, and their designation is generally based on violent offences that have happened since they were imprisoned, not in the community. It is also significant that very few Indigenous women achieve minimum security, which would allow them to access the only Aboriginal healing lodge for women in Canada.

19. Trauma affects mental health and behaviour. Classifying prisoners to higher levels of security based on institutional adjustment problems, results in prisoners who have suffered high rates of personal and intergenerational trauma being denied the supports they need to heal. The test for security classification should be amended to ensure that prisoners who have experienced trauma or have high mental health needs have more access to resources that would facilitate healing, such as mental health services and a non-punitive, culturally appropriate environment.

20. In our clients' experiences, Aboriginal Social History is included in CSC's risk assessments as lip service, and appears to have no impact on security classification decisions, other than as a factor that increases security risk.
21. Prisoners' Legal Services calls on government to engage with First Nations and Indigenous organizations so that they may achieve self-determination in the administration of criminal justice. The federal government of Canada should ensure that First Nations and Indigenous organizations have the resources to provide wrap-around community services so that Indigenous women have the support to heal from trauma and avoid contact with the criminal justice system.
22. First Nations and Indigenous organizations should be resourced to administer Indigenous courts based on restorative justice, and to ensure that there are community alternatives to incarceration at sentencing.
23. First Nations and Indigenous communities should be resourced to be able to provide healing lodges by and for Indigenous people, under s. 81 of the *Corrections and Conditional Release Act*, regardless of security level, so that no Indigenous woman should be required to set foot in a federal prison again. There should be funding and support to ensure that there are community resources to allow Indigenous prisoners to be released to Indigenous communities on

parole or statutory release under s. 84 of the CCRA, and there should be resources to ensure support is there for Indigenous women and men after the end of their sentences.

24. In order to ensure that Canada does not continue its legacy of genocide against Indigenous people, our government needs to work with First Nations and Indigenous communities to ensure they have the resources to achieve self-determination in the area of criminal justice. Canada should never again participate in the separation of Indigenous families and communities and the violence that is inherent in its imprisonment of Indigenous women and men in federal prisons.

25. Thank you.