Time to Act to Decolonize, Decriminalize & Decarcerate
Progressive Trends to Indigenize Seem to Worsen the
Mass Incarceration of Indigenous Peoples

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Who is in prison?

• Marginalization and victimization are not addressed, except by criminalization and institutionalization

• 80+% poverty-related

• Reacting to violence and past trauma

• Anaesthetized versus therapeutic support

• More people with mental health issues are in prison than in psychiatric hospitals

• Women are under-protected; over-policed; over-punished & hyper-responsibilized
Indigenous Women in Prison

• 3% of the population of Canada; 44% of women in prison for 2+ years

• Young, minimal education and opportunities

• 91% have histories of physical &/or sexual abuse; most are inter-generational survivors of residential school and subsequent state forced removal from families via child welfare systems

• 42%+ of women classified as maximum security

• 50%+ of placements in SIUs, solitary confinement & other forms of segregation

• Less access to programs and conditional release
Mass Incarceration of Indigenous Peoples

Sources
Admission Data: Canadian Centre for Justice Statistics, Adult Correctional Services in Canada – annual reports
Total Population Data (Indigenous Peoples & Indigenous Women): Office of the Correctional Investigator annual reports
Prison sentences often commence with a negative reaction to being strip searched, and reasonable responses to unreasonable situations can result in behaviour being characterized as criminal, including behaviour or actions that are symptomatic of psychiatric or mental health issues.

Is it any wonder many prisoners are reluctant to submit requests, much less complaints or grievances?
Segregation
(a.k.a. solitary confinement, structured intervention, medical observation, intensive psychiatric care, protective custody, voluntary limited association, stepdown units, enhanced units, modified movement, isolation units...).
Despite the passage of Bill C-83, characterized as ending the use of segregation and solitary confinement in Canadian federal penitentiaries, prisons continue to isolate and segregate prisoners.
Renaming of Segregation to Structured Intervention Unit (SIU) at Edmonton Prison for Women
Structured Intervention Unit (SIU) Cell
As has now been documented in several court cases, the conditions inside segregation cells are appalling. In a BC Supreme Court’s decision striking down segregation as unconstitutional, the court documented the following evidence regarding the state of the cells: “My cell ... was approximately the width of my arms when outstretched. ... When sleeping on my bed, my head was approximately two feet from my toilet. ... The walls of my cell were filthy. They were splattered with feces and smeared with food, nasal mucus, and other bodily fluid. The air quality was terrible. The vents were covered in a thick layer of dust.”
Courts have documented some of the ways the provision of health care services are compromised and undermined in prisons, including the perception and too frequent reality that psychologists employed by CSC are “there to sign off on ... continued segregation”.

In the Senate Human Rights Committee study of the human rights of prisoners and in its amendments of Bill C-83, the Senate recommended the use of desegregation and decarceration and the enhancement of legislative and policy tools to reclassify, release and/or transfer people out of prisons and into community-based health (including mental health support services) or healing environments with/in Indigenous communities.

Kent Maximum Security for Men

Shower area &
Dry cell
Pinel Restraints

- Authorized for temporary use to prevent self-injurious behaviour
- Often used in punitive manner
Segregation results in a sense of despair and prisoners often engage in devastating self-harm, including smashing their heads against walls, slashing their bodies, trying to gouge out their own eyes, mutilating themselves in sometimes unimaginable ways, smearing blood and feces on their bodies, windows and walls, too often accompanied by indescribable sounds of torment.
Ste-Anne-des-Plaines Regional Reception Centre

It seems so RITE
suicidal tendencies
Before BC and Ontario courts, one of the first lines of defence raised by the government when challenged on the constitutionality of segregation was that it provided meaningful access to human contact – precisely what they are now acknowledging it did not do. And precisely what Corrections argues that SIUs now provide.
Dorchester Medium Security for Men

Prison yard
Kent Maximum Security for Men -

Structured Intervention Unit

– area for 'out-of-cell' meaningful human interaction for prisoners
In 2019, the Senate amended s. 29 to Require CSC to Authorize Transfers of Individuals with Mental Health Issues to Community-Based Mental Health Services

- Where an individual, after having received a mental health assessment by an appropriate health professional, is found to have “disabling mental health issues,” the amendment would require that they be transferred to a psychiatric hospital in order to meet that person’s needs.

Implications of Government rejection of Senate Amendment:

- Contrary to the recommendation of the CHRC, OCI and inquest into the death of Ashley Smith, allows the CSC to disregard the individual’s mental health needs and keep them in inadequate health services managed by CSC staff.

- Presumes those with mental health issues would be involuntarily transferred, which would only be true if they were deemed incompetent pursuant to relevant provincial or territorial mental health legislation.
“The Scar” by Tona Mills

The scar on my face
Has a time and place
It came from frustration
With no real destination
How do I feel, what do I do
I’d really like to talk to you
I’m overwhelmed, I’m full of rage
Locked inside this metal cage
No way out, loss of hope
How can I cope?
My cries fall upon deaf ears
I’ve been calling out for years
Maybe my words don’t make sense
Or no one cares
Like walking up moving stairs
In one place all your life
Hanging over the sharp end of a knife
Never knowing when you’ll fall
Please someone hear my call!
A 2019 report from the Parliamentary Budget Officer outlines four alternatives to isolation that would achieve better results in terms of public safety, accountability, rehabilitation, and cost-effective investments for taxpayers.
All activities, including conversations and telephone communications in this area, are subject to monitoring and may be taped or video recorded.
Judicial Oversight and Correctional Accountability

- **Remedy for Mismanagement of Sentence**
  - Would allow prisoner to apply to the court that imposed the sentence for a reduction of the period of their incarceration or parole ineligibility period if the court found that there was unfairness in the administration of a sentence.

- This was a recommendation of Justice Louise Arbour in 1996 and included in the 2021 Senate report on *The Human Rights of Federally Sentenced Persons*.

- Since 1996, all violations of human and Charter protected rights of prisoners identified by the Arbour Commission have been repeatedly perpetrated and too infrequently remedied (eg. Ashley Smith, Matthew Hines, Eddie Snowshoe, sexual assaults of women at Nova, et cetera).

- By pursuing criminal charges against prisoners, including in relation to behaviour rooted in mental health issues, CSC routinely lengthen sentences, and/or renders sentences more punitive (sometimes deadly) than intended by sentencing judges, thereby violating prisoner’s rights.
Senators, MPs and Judges have rights of access to prisons pursuant to section 72 of the *Corrections and Conditional Release Act*. More than 30% of senators and a number of MPs have visited prisons.
Thank you to each of you for the ways in which you are and will continue to apply your passion, intellect, energy and understanding to propel us forward. I look forward to learning more about your many well appreciated contributions. 
With gratitude and thanks, Kim