



Prisoners' Legal Services

A Project of the West Coast Prison Justice Society

The role of prison in genocide and crimes against humanity against Indigenous people in Canada

September 29, 2021

Our participation in the Task Force has been difficult. We entered the Task Force as prisoners. As prisoners we spoke with grave hesitation. It was our experience that the last 12 task forces, the numerous commissions, working groups, federal department officials, and other organizations that are said to represent women in cages, had already conducted study upon study. We felt that another task force would be repeating what is already known and documented somewhere... in some brown file... in some room... covered with dust. We felt that this task force would be as useless as all the other task forces that have been shelved.

– Fran Sugar & Lana Fox, “Nistum Peyako Séht’wawin Iskwewak: Breaking Chains” (1989) 3:2 CJWL 465 at 481 – Report prepared for the Task Force on Federally Sentenced Women.

A. INTRODUCTION

The horrors of residential schools were never a secret. As reported by Tristin Hopper in the National Post, “Generations of Ottawa administrators were fully aware of the system’s deadly reputation.”¹ The same can be said of the impact of Canada’s colonial prison system on Indigenous people today.

Canada is currently incarcerating Indigenous people at the highest rates in its history. While Indigenous people make up only 5% of the population in Canada, over 30% of people in federal custody are Indigenous, and Indigenous women represent 43% of women in federal custody. Canada’s rate of incarceration of Indigenous people is 9.2 times higher than the rate of incarceration of non-Indigenous

¹ Tristin Hopper, “This school is a jail house’: Documents reveal the horrors of Indian Residential Schools,” *The National Post* (3 June 2021).

people.² These rates of mass incarceration of Indigenous people in Canadian prisons have been on a steady incline over the past decade.³

This high rate of incarceration of Indigenous people stems from “the intergenerational legacy of the residential school system and colonialism.”⁴

Historically Canada has committed genocide 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.⁵ The mass incarceration of Indigenous people serves much the same function and is a continuation of the genocidal practice of residential schools. Prisons continue to separate parents from their children, homelands and culture, and regularly subject people in prison to a loss of dignity, identity and autonomy. As noted in *Creating Choices*,⁶ mothers may have been the only significant person in their children’s lives, and many children will be placed in foster care when a mother is put in prison. Women’s imprisonment has negative outcomes for children.⁷ The imprisonment of Indigenous people of all genders has negative outcomes for families, communities and nations.

Indigenous mass incarceration meets the test under international law for genocide: it results in bodily and mental harm to a large proportion of Indigenous people; it prevents births within the group; it results in children being forcibly transferred to another group; and it inflicts destructive conditions on the group.⁸

This mass incarceration of Indigenous people in prisons also meets the test for genocide in that it is intentional. Sections 81 and 84 of the *Corrections and Conditional Release Act* (CCRA) provide a mechanism for Indigenous people to serve their custodial or community portions of their sentences under the supervision of Indigenous communities. While the legislative intent of ss 81 and 84 appears to be to address the over-representation of Indigenous people in penitentiaries, the under-resourcing of Indigenous-run healing services as alternatives to incarceration is intentional. The under-resourcing of Indigenous-run healing services means that ss. 81 and 84 of the CCRA are seldom used, and their benefit to Indigenous people is out of reach to the vast majority of Indigenous people in prison.⁹

² Canada’s population is approximately 37,590,000. The number of Indigenous people in Canada is approximately 1,670,000. The number of prisoners in Canada is approximately 14,149. The number of Indigenous federal prisoners is approximately 4,245.

³ Office of the Correctional Investigator, *Indigenous People in Federal Custody Surpasses 30% Correctional Investigator Issues Statement and Challenge* (January 21, 2020). Online: <https://www.oci-bec.gc.ca/cnt/comm/press/press20200121-eng.aspx>.

⁴ Senate Standing Committee on Human Rights, *Human Rights of Federally-Sentenced Persons*, June 2021, page 39. Online: https://sencanada.ca/content/sen/committee/432/RIDR/Reports/2021-06-16_FederallySentenced_e.pdf.

⁵ Truth and Reconciliation Commission of Canada, *Final Report of the Truth and Reconciliation Commission of Canada, Summary: Honouring the Truth, Reconciling for the Future*, 2015 (Winnipeg).

⁶ Task Force on Federally Sentenced Women, *Creating Choices: The Report of the Task Force on Federally Sentenced Women*, 1990 (Ottawa). Online: <https://www.csc-scc.gc.ca/women/toce-eng.shtml>.

⁷ Debra Parkes, “Women in Prison: Liberty, Equality, and Thinking Outside the Bars”, 12 J.L. & Equal. 127 (2016) at 138-139.

⁸ See United Nations, Convention on the Prevention and Punishment of the Crime of Genocide, Treaty Series, vol. 78, p. 277 (12 January 1951), Article II. Online: <https://www.refworld.org/docid/3ae6b3ac0.html>.

⁹ Leah Combs, *Healing Ourselves: Interrogating the underutilization of Sections 81 & 84 of the Corrections and Conditional Release Act*, (2018) 41(3) Manitoba Law Journal 163.

Prisons also constitute crimes against humanity against Indigenous people in Canada under Article 7 of the *Rome Statute*,¹⁰ as a widespread and systemic attack involving “imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law,” and “torture” in many cases where solitary confinement is used.

B. LIFE IN COLONIAL PRISON

In Task Force meetings, faced with theoretical discussions of the condition of women in prison, voiced by people whose responsibility is bureaucratic, we felt repulsed and suffocated. This talk had no connection to the reality we had experienced. When our rage became uncontainable we spoke of prison conditions, of the actual experiences of being Aboriginal women in prison, of real-life brutality. Yet our words were met with tense silences and appear nowhere in the minutes of the meetings. Our descriptions of the reality are buried as our sisters are buried in prison.

– Fran Sugar & Lana Fox, “Nistum Peyako Séht’wawin Iskwewak: Breaking Chains” at 468.

Prisoners’ Legal Services’ clients report to us about the devastating impact on them of isolation, violence and racism that characterises their experiences in colonial prisons. Indigenous people in custody speak of the intergenerational trauma they have experienced from colonialism, and the trauma they continue to experience in prison, which creates barriers to healing.

1. Impact on liberty rights

Within prisons, Indigenous people are disproportionately impacted by restrictions on their liberty rights under s 7 of the *Charter*. Indigenous people serve a higher proportion of their sentences in custody, rather than under community supervision.¹¹ Indigenous people are significantly less likely to be released on parole (23.2% granted) than non-Indigenous people (40.7% granted).¹² Indigenous people are more likely to be held in custody until their statutory release dates (74.4% for Indigenous people versus 55.8% for non-Indigenous people in 2017-18).¹³

Indigenous people are more likely to be held in maximum security, and less likely to be held in minimum security than non-Indigenous people.¹⁴

¹⁰ UN General Assembly, *Rome Statute of the International Criminal Court (last amended 2010)*, 17 July 1998, ISBN No. 92-9227-227-6, available at: <https://www.refworld.org/docid/3ae6b3a84.html>.

¹¹ Public Safety Canada, *Corrections and Conditional Release 2018 Statistical Overview* (August 2019), page 53. Online: <https://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/ccrso-2018/ccrso-2018-en.pdf>.

¹² Public Safety Canada, *Corrections and Conditional Release 2018 Statistical Overview* (August 2019), page 86. Online: <https://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/ccrso-2018/ccrso-2018-en.pdf>.

¹³ Public Safety Canada, *Corrections and Conditional Release 2018 Statistical Overview* (August 2019), page 80. Online: <https://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/ccrso-2018/ccrso-2018-en.pdf>.

¹⁴ Public Safety Canada, *Corrections and Conditional Release 2018 Statistical Overview* (August 2019), page 55; Office of the Correctional Investigator, *Indigenous People in Federal Custody Surpasses 30%* (21 January 2020).

2. The maximum-security environment

According to the Office of the Correctional Investigator of Canada, maximum-security prisons designated for men in Canada are operated by a culture that tolerates and condones violence. One of Canada's five maximum security prisons has been described by an independent human resource assessment as running "on fear, suspicion, mistrust, intimidation, harassment, bullying and abuse of power – among staff members." People incarcerated in this maximum-security institution are treated in a "cruel, callous and degrading manner." The Office of the Correctional Investigator describes another maximum-security prison as having a high number of people alleging "improper or excessive use of force" with a staff culture "which gives licence to a security-first approach" and an over-reliance on inflammatory agents (pepper spray) and isolation.¹⁵

3. Use of force

The Correctional Investigator of Canada has noted that "year after year" Indigenous people are over-represented in uses of force by correctional officers.¹⁶ In his 2017-2018 Annual Report, the Correctional Investigator of Canada reported that 47% of uses of force involved one or more Indigenous prisoners. At that time, the prison population in Canada was 28% Indigenous.¹⁷

Correctional officers frequently use force against people in Canadian prisons as a response to self-harm, when someone is in emotional distress or when someone is non-compliant (for example, if they are refusing to return to their cell where they will be isolated). Force may include spraying someone with pepper spray, tackling them to the ground, punching them, kicking their feet from under them, holding them down, shooting them with rubber bullets or cutting their clothes off.¹⁸

Researchers have described the effect of force used by police as traumatic "long after violent incidents occur" and potentially impacting a person's "long-term psychological wellbeing." They found that people who experienced force by police may also identify correctional officers "as a source of threat and mistrust, which may lead to increased anxiety and depression throughout their daily interactions with correctional officers."¹⁹

4. Solitary confinement and torture

In the past we have spoken to other Task Forces, Sentencing Commissions, reporters, investigators, Correctional Service staff, and various other people who listened politely and nodded in apparent understanding. Yet afterwards our conditions, the conditions of our sisters, remained unchanged. The segregation unit of the Prison for Women (P4W) continued to hold us hostage without heat in the dead of the winter, without toothpaste

¹⁵ Office of the Correctional Investigator of Canada, *Latest Annual Report of the Correctional Investigator of Canada Tabled in Parliament; Dr. Zinger Raises Concern about Misconduct and Mistreatment Behind Bars* (Ottawa). 18 February 2020. Online: <https://www.oci-bec.gc.ca/cnt/comm/press/press20200218-eng.aspx>.

¹⁶ Office of the Correctional Investigator, *Indigenous People in Federal Custody Surpasses 30%* (21 January 2020).

¹⁷ Office of the Correctional Investigator of Canada, *Annual Report (2017-2018)* at 11 and 34.

¹⁸ West Coast Prison Justice Society, *Damage Control: Use of force and the cycle of violence and trauma in BC's federal and provincial prisons* (June 2019). Online: <https://prisonjustice.org/wp-content/uploads/2021/05/use-of-force-report-Nov-21-2019-updated.pdf>.

¹⁹ Benjamin Meade, Benjamin Steiner & Charles F. Klahm IV, "The effect of police use of force on mental health problems of prisoners". *Policing and Society* Vol. 27, No. 2 (2017) at 230-231.

or a tooth brush. More seriously, medical treatment for crisis situations was so deplorable that we often believed that death was inevitable for Sisters who slashed.

– Fran Sugar & Lana Fox, “Nistum Peyako Séht’wawin Iskwewak: Breaking Chains” at 468.

Indigenous people are subjected to higher rates of solitary confinement than other people, both under the previous administrative segregation regime, and under the current Structured Intervention Unit regime. In early 2018, Indigenous people represented 44% of people in administrative segregation in federal custody. Indigenous people represent 39% of all SIU stays.²⁰

Solitary confinement constitutes torture or cruel treatment if it is used for more than 15 days, or for any amount of time for someone with a pre-existing mental health disability.²¹

According to Correctional Service Canada’s data, use of Structured Intervention Units is considered solitary confinement in 28% of placements. Ten percent of SIU placements constitute torture under the United Nations’ definition.²²

Solitary confinement puts people “at significant risk of serious psychological harm” and increases self-harm and suicide. Many people are likely to suffer permanent harm as a result of solitary confinement.²³ People subjected to isolation report experiencing anger, boredom, stress, loss of the sense of reality, trouble sleeping, impaired concentration, confusion, depression and hallucinations.²⁴

5. Suicide and self-harm

Indigenous people experience high rates of suicide, attempted suicide and self-harm in federal custody.

In 2020-21, 55% of self-harm injuries were experienced by Indigenous people in federal custody (compared to 30% of the prisoner population as a whole).²⁵

²⁰ Anthony Doob and Jane Sprott, *Understanding the Operation of Correctional Service Canada’s Structured Intervention Units: Some Preliminary Findings* (26 October 2020) at 10.

²¹ Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, UNGAOR, 66th Sess, UN Doc A/66/268 (5 August 2011) at ¶¶ 76 and 78. Online: <https://archive.org/details/452639-un-report-ontorture>; UN General Assembly, *United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules)*: note / by the Secretariat, 29 September 2015, A/C.3/70/L.3, Rules 43, 44 and 45(2). Online: https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf.

²² Anthony Doob and Jane Sprott, *Solitary Confinement, Torture and Canada’s Structured Intervention Units* (23 February 2021) at 3.

²³ *BC Civil Liberties Association v Canada*, 2019 BCCA 228 at para 14, 165 and 183.

²⁴ *Canadian Civil Liberties Association v Canada*, 2019 ONCA 243 at para 76.

²⁵ Data provided by the Office of the Correctional Investigator (August 24, 2021).

Over 40% of attempted suicides in federal prisons in the past 10 years were by Indigenous people.²⁶ Ten years ago, the percentage of Indigenous people made up 20% of the federal prison population, compared to 30% today.²⁷

Between 2009/10 and 2016/17, Indigenous people in federal custody were overrepresented in deaths from suicide.²⁸

6. Deaths by homicide

Indigenous people in federal custody are also over-represented in deaths by homicide. Between 2009/10 and 2016/17, 32% of deaths by homicide in federal prisons were Indigenous people.²⁹

C. RESOURCES SPENT INCARCERATING INDIGENOUS PEOPLE IN COLONIAL PRISONS

Our understandings of law, of courts, of police, of the judicial system, and of prisons are all set by lifetimes defined by racism. Racism is not simply set by the overt experiences of racism, though most of us have known this direct hatred, have been called "dirty Indians" in school, or in foster homes, or by police or guards, or have seen the differences in the way we were treated and have known that this was no accident. Racism is much more extensive than this. Culturally, economically, and as people we have been oppressed and pushed aside by whites. We were sent to live on reserves that denied us a livelihood, controlled us with rules that we did not set, and made us dependent on services we could not provide for ourselves.

The Indian Agent and the police are for us administrators of oppressive regimes whose authority we resent and deny. Like other peoples around the world who live under illegitimate political structures, we learn that the rules imposed by this authority exist to be broken, that they are not our ways, that they are only the outside and not the inside measure of the way a person should act. As children we were taught to fear white authority because of the punishments it could enforce. Faced with institutional neglect and overt racism, our feeling about white authority even before we encountered the criminal justice system mixed passive distrust and active hatred.

– Fran Sugar & Lana Fox, “Nistum Peyako Séht’wawin Iskwewak: Breaking Chains” at 475.

²⁶ Data provided by the Office of the Correctional Investigator (August 24, 2021).

²⁷ Indigenous People in Federal Custody Surpasses 30% Correctional Investigator Issues Statement and Challenge. Office of the Correctional Investigator, January 21, 2020. Online: <https://www.oci-bec.gc.ca/cnt/comm/press/press20200121-eng.aspx>.

²⁸ Correctional Service Canada, *Annual Report on Deaths in Custody 2016-2017*. Online: <https://www.csc-scc.gc.ca/005/008/005008-3013-en.shtml#9>.

²⁹ Correctional Service Canada, *Annual Report on Deaths in Custody 2016-2017*. Online: <https://www.csc-scc.gc.ca/005/008/005008-3013-en.shtml#9>.

In 2018 the Correctional Service Canada had 14,149 people in its custody.³⁰ Thirty percent are Indigenous,³¹ meaning that there are approximately 4,245 Indigenous people in federal prisons.

The annual average cost of incarcerating an individual in 2017-18 was \$121,339³². Using the average cost of imprisonment, Canada spends more than half a billion dollars per year (\$515,047,653) imprisoning Indigenous people in federal prisons.

This figure is likely higher because Canada tends to keep Indigenous people in higher levels of security, and the rate of mass incarceration of Indigenous women is higher than for men. The annual cost of imprisonment in maximum security institutions designated for men is \$169,367 and the cost of imprisonment in an institution designated for women is \$212,005.³³

D. HEALING LODGES

For Aboriginal women, prison is an extension of life on the outside, and because of this it is impossible for us to heal there. In ways that are different from the world outside, but are nevertheless continuous with it, prisons offer more white authority that is sexist, racist, and violent. Prisons are, then, one more focus for the pain and rage we carry. For us, prison rules have the same illegitimacy as the oppressive rules under which we grew up. Those few "helping" services in prison that are intended to heal are delivered in ways that are culturally inappropriate to us as women and as Aboriginal people. Physicians, psychiatrists, and psychologists are typically white and male. How can we be healed by those who symbolize the worst experiences of our past? We cannot trust these so-called caregivers, and all too often, in the view of those interviewed, we again experience direct hostility from the very people who are supposedly there to help. This is why Aboriginal women express anger at these caregivers. This is why we refuse to become involved, and then are further punished because we fail to seek treatment...

It is racism past in our memories, and present in our surroundings, that negates non-Aboriginal attempts to reconstruct our lives. Existing programs cannot reach us, cannot surmount the barriers of mistrust that racism has built. It is only Aboriginal people who can design and deliver programs that will address our needs and that we can trust. It is only Aboriginal people who can truly know and understand our experience. It is only Aboriginal people who can instill pride and self-esteem lost through the destructive experiences of racism. We cry out for a meaningful healing process that will have a real impact on our lives, but the objectives and implementation of this healing process must be premised on our need, the need to heal and walk in balance.

³⁰ Public Safety Canada, *2019 Corrections and Conditional Release Statistical Overview*. Online:

<https://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/ccrso-2019/index-en.aspx>.

³¹ Indigenous People in Federal Custody Surpasses 30% Correctional Investigator Issues Statement and Challenge. Office of the Correctional Investigator, January 21, 2020. Online: <https://www.oci-bec.gc.ca/cnt/comm/press/press20200121-eng.aspx>.

³² Public Safety Canada, *2019 Corrections and Conditional Release Statistical Overview*. Online:

<https://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/ccrso-2019/index-en.aspx>.

³³ Public Safety Canada, *2019 Corrections and Conditional Release Statistical Overview*. Online:

<https://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/ccrso-2019/index-en.aspx>.

– Fran Sugar & Lana Fox, “Nistum Peyako Séht’wawin Iskwewak: Breaking Chains” at 476-477 and 482.

Section 81 of the CCRA allows Indigenous people to be transferred to Indigenous communities while serving custodial sentences as an alternative to imprisonment in a colonial prison. However, funding available for Indigenous-run healing lodges is a small fraction of the amount of money spent incarcerating Indigenous people in prisons. Healing lodge beds are generally only available to people who are classified as minimum security. CSC decides who can be transferred to a healing lodge.

A 2016 Auditor General report “Preparing Indigenous Offenders for Release” indicates that in 2015-16, CSC spent only \$23 million on healing lodges – five operated by Indigenous communities under s 81 of the *Corrections and Conditional Release Act*, and four operated by CSC. This report found that healing lodges were unavailable to the vast majority of Indigenous people in federal custody because most Indigenous people were classified as medium or maximum security, and that healing lodges were operating below capacity.³⁴

The report found that Indigenous people released from a healing lodge were more likely to successfully complete their community supervision (78%) than those released from other minimum-security prisons (63%).

CSC currently operates four healing lodges in Canada with a total of 250 beds available for men classified to minimum security, and women classified to minimum or medium security.

CSC now funds six Indigenous-operated healing lodges, three of which also provide beds for people under community supervision (people who are not serving a custodial sentence). The total beds available in these healing lodges, which include beds for people on conditional release, is 189, or 4% of the number of Indigenous people in custody.

Media reports indicate that Indigenous-run healing lodges are under-funded compared to CSC-run healing lodges. For example, in 2017 the Indigenous-run Stan Daniels Healing Centre, which offers 73 beds, had an annual budget of \$2.8 million (\$38,356 per resident – significantly less than the average cost of incarceration). CSC-run healing lodges had budgets between \$7 million to \$12 million, despite some offering fewer beds.³⁵

Numerous reports have called for investment in Indigenous-run healing lodges, including *The Final Report of the Truth and Reconciliation Commission of Canada*, which notes that the prospect of going to a healing lodge is “largely illusory” for most Indigenous people in custody due to the small number of beds available, and the fact that 90% are ineligible for healing lodges because they are classified to medium or maximum security.³⁶ The Truth and Reconciliation Final Report also found that although Indigenous people had positive experiences in healing lodges, they are severely under-resourced.³⁷

³⁴ Auditor General of Canada, *Report 3 – Preparing Indigenous Offenders for Release – Correctional Service Canada* (2016). Online: https://www.oag-bvg.gc.ca/internet/english/parl_oag_201611_03_e_41832.html.

³⁵ Martha Troian “Healing lodges designed to help rehabilitate Indigenous offenders underfunded, advocates say,” CBC News, March 01, 2017.

³⁶ Canada’s Residential Schools: The Legacy -The Final Report of the Truth and Reconciliation Commission of Canada Volume 5, page 244. Online: http://nctr.ca/assets/reports/Final%20Reports/Volume_5_Legacy_English_Web.pdf

³⁷ Truth and Reconciliation Final Report, Volume 5, page 250.

The 2012 Correctional Investigator report *Spirit Matters*³⁸ is critical of CSC's policy of restricting access to healing lodges to people classified as minimum (or in rare cases low risk medium) security, noting that this policy excludes almost 90% of Indigenous people in federal custody "from even being considered for transfer to a Healing Lodge."

Spirit Matters also points out the financial vulnerability of Indigenous-run healing lodges which "are subject to changes in CSC priorities and funding," noting CSC's 2001 reallocation of \$11.6 million that was earmarked for healing lodges to other priorities.

The Office of the Correctional Investigator also found the underfunding of s 81 healing lodges significant compared to CSC-run facilities:

In 2009-2010, the allocation of funding to the four CSC-operated Healing Lodges totalled \$21,555,037, while the amount allocated to Section 81 Healing Lodges was just \$4,819,479. Chronic under-funding of Section 81 Healing Lodges means that they are unable to provide comparable CSC wages or unionized job security.

The Correctional Investigator was critical that there was no policy framework or criteria to assess proposals from Indigenous communities to develop s 81 healing lodges.

The Correctional Investigator was also concerned that although over 70% of Indigenous people released from custody go to urban communities, only one healing lodge was in a city, and that healing lodges designated for women are only available in the prairies, requiring many women to travel far from their own families and communities. Both concerns are still true today.

The Correctional Investigator recommended in *Spirit Matters* that CSC develop a long-term strategy for additional s 81 agreements, significantly increase the number of beds available, and negotiate permanent and realistic funding for existing and future healing lodges on par with CSC-operated facilities.

The *Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls* also found there were "obviously very limited opportunities for decarceration" through healing lodges designated for women.³⁹

Both *Red Women Rising: Indigenous Women Survivors in Vancouver's Downtown Eastside*⁴⁰ and

³⁸ Office of the Correctional Investigator, *Spirit Matters: Aboriginal People and the Corrections and Conditional Release Act Final Report*, October 22, 2012. Online: <https://www.oci-bec.gc.ca/cnt/rpt/oth-aut/oth-aut20121022-eng.aspx#TOC10>.

³⁹ *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls*, Volume 1A. Online: https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Final_Report_Vol_1a-1.pdf.

⁴⁰ Downtown Eastside Women's Centre, *Red Women Rising: Indigenous Women Survivors in Vancouver's Downtown Eastside* (2019). Online: <http://dewc.ca/wp-content/uploads/2019/03/MMIW-Report-Final-March-10-WEB.pdf>.

the report of the Standing Committee on the Status of Women, *A Call to Action: Reconciliation with Indigenous Women in the Federal Justice and Correctional System*,⁴¹ call for increased resources and capacity for s 81 healing lodges for women and a change of policy to allow women classified to maximum security to access healing lodges.

The 2018 Report of the Standing Committee on Public Safety and National Security, *Indigenous People in the Federal Correctional System*, also heard concern that there were no Indigenous-run healing lodges in BC, Ontario, the Atlantic and the far north, and concerns about the funding gap between CSC-operated healing lodges versus Indigenous-run ones.⁴² The Standing Committee recommended that Canada increase funding to Indigenous communities for s 81 healing lodges and work to increase the number of Indigenous people in custody eligible to serve sentences in them.

The June 2021 report of the Senate Standing Committee on Human Rights, *Human Rights of Federally-Sentenced Persons* also recommended that Canada increase the number of section 81 agreements and fund additional healing lodges.⁴³

The problem is not a lack of will among Indigenous communities to provide healing services to people involved in the criminal system. The problem is a refusal to fund Indigenous communities to provide healing services. In the 2017 federal budget, Public Safety allocated only \$10 million over five years for the Indigenous Community Corrections Initiative for Indigenous communities to provide alternatives to incarceration and reintegration support. Public Safety received 126 proposals with a total budget of \$146 million. However, it funded only 16 projects, and funding for these initiatives will expire in March 2022.⁴⁴ The funded initiatives are diversion or reintegration focused – it does not appear that any of them provide beds for Indigenous people under CCRA s 81 agreements.

Canada recently amended the CCRA's guiding principles to include an obligation on CSC to consider placement at Indigenous-run healing lodges as alternatives to custody in a penitentiary.⁴⁵ However, with inadequate funding for healing lodges, this consideration will be meaningless for most people.

E. RECOMMENDATION

Prisoners' Legal Services calls on Canada to end the genocidal practice of incarcerating Indigenous people in its prisons, by shifting resources from the Correctional Service Canada to Indigenous Nations and communities, to provide healing services to Indigenous people.

⁴¹ House of Commons Standing Committee on the Status of Women, *A Call to Action: Reconciliation with Indigenous Women in the Federal Justice and Correctional Systems* (June 2018). Online: <https://nccabc.ca/wp-content/uploads/2018/08/A-Call-to-Action-Reconciliation-with-Indigenous-Women-in-the-Federal-Justice-Correctional-Systems.pdf>.

⁴² Report of the Standing Committee on Public Safety and National Security Hon. John McKay Chair, June 2018, 42nd PARLIAMENT, 1st SESSION. Online: <https://www.ourcommons.ca/Content/Committee/421/SECU/Reports/RP9984221/securp22/securp22-e.pdf>.

⁴³ Senate Standing Committee on Human Rights, *Human Rights of Federally-Sentenced Persons*, June 2021, Recommendation 51. Online: https://sencanada.ca/content/sen/committee/432/RIDR/Reports/2021-06-16_FederallySentenced_e.pdf.

⁴⁴ Online: <https://www.publicsafety.gc.ca/cnt/cntrng-crm/crrctns/cmmnt-ccrctns-nttv-prjcts-en.aspx>. [Viewed July 2020. The content of this page has since been removed by Public Safety Canada.]

⁴⁵ *Corrections and Conditional Release Act*, s 4(c.1).