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## **Standing Committee on the Status of Women**

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**EVIDENCE**

**Tuesday, December 5, 2017**

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**Chair**

**Mrs. Karen Vecchio**



## Standing Committee on the Status of Women

Tuesday, December 5, 2017

•(1145)

[English]

**The Chair (Mrs. Karen Vecchio (Elgin—Middlesex—London, CPC)):** We're going to begin today's meeting now that we have a quorum.

First of all, thank you very much for sticking around. We apologize. There were important votes that we had to go to.

There are a couple of things I want to announce. Tomorrow is December 6 and is of course the National Day of Remembrance and Action on Violence Against Women. It's white ribbon day. I know there will be comments made in the House of Commons tomorrow, so I encourage everybody to participate and to watch some of them.

I'd also like to remind you that there was a serious incident with one of our interpreters. Unfortunately, what happened with the microphone was that there was some feedback with the earpiece, which caused some damage to one of our interpreters, so be very cautious with your earpiece. This caused something similar to a concussion. I want to ask everybody to take their time and recognize that somebody is on the other end of the mike and the earpiece. It might be my high screechy voice that's causing some of these pains, but we'll go forward.

To begin, under Standing Order 108(2) and the motion adopted by the committee on Tuesday, June 20, the committee is resuming its study on indigenous women in the federal justice and correctional systems.

Today we are honoured to have with us Michael Ferguson, who is the Auditor General of Canada, and Carol McCalla, who is the principal.

I recognize that we're short on time, but I will ask if you would be able to stay for our second panel as well. That may be an opportunity for you. I don't know what your schedule is like, Mr. Ferguson.

To begin, we're going to give you seven minutes to address the group. Thank you.

[Translation]

**Mr. Michael Ferguson (Auditor General of Canada, Office of the Auditor General):** Madam Chair, thank you for inviting us to speak about our recent audit reports on correctional services. We look forward to helping inform your study on indigenous women in the federal justice and correctional systems. Joining me at the table is Carol McCalla, the principal who was responsible for these audits.

We have done two audits of Correctional Service Canada concerning indigenous women, resulting in our 2017 report on preparing women offenders for release, and our 2016 report on preparing indigenous offenders for release.

[English]

Our audits focused on the timely access to programs and services that support the rehabilitation of offenders sentenced to two years or more by the courts. There are almost 700 women in federal custody and a further 600 supervised in the community. Indigenous women have grown to represent 36% of the women offender population. Although CSC can't control the number of offenders who receive federal sentences, it can provide them with timely access to rehabilitation programs and culturally appropriate services to prepare them for release on parole.

Our audits found that CSC's tool to assign women offenders to security levels was designed to assess men, not women, and it didn't consider the unique needs of indigenous women offenders. CSC also used this tool to refer women offenders to correctional programs, which is problematic since the tool wasn't designed for this purpose. As a result, some women offenders were held at a higher security level than necessary and were assigned to rehabilitation programs that they didn't need.

We found that CSC didn't provide women offenders with the rehabilitation programs they needed when they needed them. Most women offenders in federal custody were serving short-term sentences, which meant they became eligible for release in the first year of their sentence. However, more than three-quarters of indigenous women offenders hadn't completed the rehabilitation programs they needed when they were first eligible for parole because they didn't get timely access to them. As a result, they had less time to benefit from a gradual and structured release into the community, which supports their successful reintegration.

However, we found that CSC increased the use of section 84 release plans for indigenous women offenders. Under section 84 of the Corrections and Conditional Release Act, indigenous organizations or communities are part of the reintegration process.

Indigenous offenders with a section 84 release plan are more likely to be granted parole than other indigenous offenders, but we also found that access to culturally specific programs for indigenous women offenders was limited at some institutions. For example, healing lodges were available in only one region and operated at nearly full capacity. Offenders who participated in healing lodge programs had low rates of reoffending upon release, yet CSC hadn't examined ways to provide greater access to more indigenous offenders.

• (1150)

[*Translation*]

We also found that CSC used segregation to manage some women offenders and about half of the women offenders placed in segregation were indigenous. Despite a reduction in the total number of offenders segregated each year, we found that 20% of segregation placements were for longer than 15 days, the limit recommended by human rights groups.

Two-thirds of federally sentenced women offenders have been identified with mental health issues. We found that CSC did not have sufficient capacity to deliver the mental health services that women offenders needed. Mental health teams were not fully staffed across the women's institutions, and its one psychiatric hospital operated at or near full capacity over the past two years. CSC has not yet secured additional beds within provincial psychiatric hospitals to address identified shortfalls.

We also found that CSC used cells on its segregation range to monitor women offenders at risk of self-injury or suicide, without 24-hour access to clinical treatment or support.

We are pleased to note that since our audit work was completed, CSC agreed to no longer place women offenders at risk of self-injury or suicide in cells on the segregation range.

Madam Chair, this concludes my opening statement.

We would be pleased to answer any questions the committee may have.

[*English*]

**The Chair:** Thank you very much. We do have limited time. We will have enough time for the first round of questions. We will be starting our second panel a bit late.

We'll start off with Pam Damoff, for seven minutes.

**Ms. Pam Damoff (Oakville North—Burlington, Lib.):** Thank you, Chair.

Thank you, Mr. Ferguson, for being here, for your report, and for highlighting the issues in corrections. I understand that the Correctional Service has agreed with the recommendations in your report.

I guess my first question is whether you are optimistic that given the fact they've agreed with it, we'll see change within the Correctional Service.

**Mr. Michael Ferguson:** When we do an audit, we make our recommendations. We get a response from the department. Just about always, the department will agree with our recommendations,

because our process is such that we have time to discuss the recommendations with them.

I always reserve judgment on how much impact that's going to have. Sometimes we can come back and do a follow-up audit to see whether the department has implemented our recommendations. The departments are always responsible for preparing an action plan, which is outside of the audit, about what they're going to do to implement our recommendations.

They present that action plan to the public accounts committee so that they are on record for the individual steps they're going to do. I always encourage all committees to take the time, when you have it, to follow up with the department on whether it's implementing what it says it's going to implement in its action plan.

• (1155)

**Ms. Pam Damoff:** One of things you highlighted was the assessment when women come into corrections, the assessment tools that have been used, which I understand are 25 years old and designed for men. We know that women are disproportionately going into maximum security when there's really no need for them to be doing so. Because of that, they're not able to access programming. Is that correct?

You're shaking your head.

**Ms. Carol McCalla (Principal, Office of the Auditor General):** The department uses the custody rating scale, and that tool was designed over 25 years ago based on a sample population of male offenders. It uses that tool to assess women offenders. Its own studies have found problems with the predictive reliability of that tool to ensure that the women get assigned to the appropriate level of security.

We found that indigenous women offenders are on average held at higher levels of security than non-indigenous women, and that is problematic for us. We did make a recommendation that they incorporate tools to consider an offender's aboriginal social history so that they can identify ways to mitigate the risks that these offenders pose, and therefore, they would not necessarily have to place them at such high levels of security.

**Ms. Pam Damoff:** I'm also on the public safety committee, and we did a very brief study on access to early release and parole. One of the things we heard was about programming in general. Because of cutbacks that were made in corrections, where there might have been individual programs for specific offenders, those were sort of rolled into a one-size-fits-all program, which doesn't necessarily address issues that... They're not individualized; therefore, inmates are not actually accessing something that might be helpful to them. In addition to the lack of access to the programs, it's also whether it's actually helpful programming.

I just wondered if you could comment on that.

**Mr. Michael Ferguson:** I'll start and then maybe I'll ask Ms. McCalla to add something, as well.

Certainly one of the things we found, first of all, was that the same tool we just referred to, which they use to assign a security level, is the tool they use to assign programming. The tool wasn't designed for programming, so right from the beginning there's an issue about the types of programming that might be assigned.

The other thing we found often was that they just didn't start the programming early enough, so even if the programming was appropriate and was available, it wasn't being started on a frequent enough basis. I think it was in the audit on indigenous offenders that we saw it was taking up to five months, I believe, before they actually started the programming. If you have people who have a two-year sentence, for example, and you don't start the programming for that period of time, then they're not going to get their program completed by their parole date.

Maybe Ms. McCalla has something else to add.

**Ms. Carol McCalla:** With regard to the effectiveness of these programs, CSC has reviewed its programs for both indigenous and non-indigenous women. The problem it has in evaluating the programs' effectiveness is that women, overall, have very low risks of reoffending, so in taking a program, it's hard to show a reduction once they've been released.

They found for indigenous women the programs were, however, effective in reducing reoffending risk, but for non-indigenous women, they didn't necessarily find the effectiveness. We recommended in our report that they also evaluate how good their programs are at targeting the risk factors and addressing risk factors like substance abuse, which is a very high risk factor for many women offenders for reoffending. They have not evaluated how well their programs address those risks.

**Ms. Pam Damoff:** Have the programs gone through both a gender-based analysis and also a cultural appropriateness analysis to ensure that programs for indigenous women are, in fact, culturally appropriate and designed for women versus men?

• (1200)

**Ms. Carol McCalla:** Yes, in our indigenous offenders audit we looked at how they had developed their correctional programs for men and women, and they did a lot of consultation and ensured that the programs were culturally relevant. We met with elders at various penitentiaries and they all spoke very highly of the programs.

**Ms. Pam Damoff:** Okay. Was there gender-based analysis done on the programs, as well. Do you know?

**Ms. Carol McCalla:** I'm not aware of one, no.

**Ms. Pam Damoff:** It doesn't sound like it, from what you're telling me, if its programs are also designed for men, but—

**Ms. Carol McCalla:** They have specific programs for men and specific programs for women, so they have done a lot in developing correctional programs that meet the unique needs of women offenders. Our concern was that they weren't getting quick enough access to these programs so that they completed them by the time they were ready for parole.

**Ms. Pam Damoff:** Thank you.

**The Chair:** Excellent. Thank you very much.

We're now going to move over to Martin Shields for his seven minutes.

**Mr. Martin Shields (Bow River, CPC):** Thank you, Madam Chair.

Thank you for being here today. I appreciate your information.

As you've indicated, there's been change in the prison population. How has your auditing function changed to account for that, the rubrics you're using to evaluate it?

**Mr. Michael Ferguson:** When we do an audit like this, we set an objective to look at the program and, in this case, primarily to see what the department was doing to prepare women offenders for release. We've now done three audits on preparing offenders for release. We did one that looked at the population in general, then we did one that looked at indigenous offenders, and then we did one looking at women offenders.

In each case, for each of those audits, we considered those different subpopulations when we got to the indigenous offenders and the women offenders to try to identify what might be the unique issues or the issues that are of more importance to those types of populations. For the indigenous offenders, it was the culturally appropriate programming and it was also understanding the aboriginal history. Those were a couple of things that were unique about that population.

With the women offenders, it was the fact that such a high rate of them have mental health issues. That's how we make the adjustments in our audit, by looking at the individual populations and deciding which factors are most important for those populations.

**Mr. Martin Shields:** As you're developing the auditing mechanisms, part of the process is that you are evolving as well. You have a different scenario or objectives that you're looking for. It's evolving. It's flexible enough. It works for you. You have staff to do this. Does it work as you evolve it?

**Mr. Michael Ferguson:** Every time we do one of these performance audits we're going into a program, and I think all government programs have their own unique aspects.

We have a basic methodology of what we try to do. First of all, we establish an audit objective, then we establish criteria, and we base that criteria on sources of information, perhaps government policies or those types of things. Then we go through a planning phase. We prepare draft reports and we share that with the department. We have a whole methodology that we go through that is the same for every audit.

But on the other hand, every audit is unique, and we need to consider it uniquely because no two programs are exactly the same.

**Mr. Martin Shields:** Good point.

One of the things you mentioned was a higher security level. The other one you mentioned was being assigned to rehabilitation programs that they did not need. I find that interesting.

How did they get assigned, or how did you determine that it was what they didn't need? That's an interesting piece.

**Mr. Michael Ferguson:** When offenders enter into the system—in that audit it was particularly women offenders—the first thing that happens is that they get evaluated using this rating tool. That's the rating tool that we mentioned was designed 25 years ago based on a sample of men. It was really designed for how you assign a security level for men offenders: should they be in maximum, medium, or minimum security.

They use that same tool, even though it was a security tool, to assign programming. It wasn't designed for programming, and it was also designed for men offenders. On the basis of that, it's not a good predictor of the types of programming that the women offenders need.

Again, I'll ask Ms. McCalla to add any details.

• (1205)

**Ms. Carol McCalla:** They use the custody rating scale to assign programs. We found that when they do the security classification, about a half of the women offenders are determined to be low risk, so they're sent to minimum security sections of the penitentiary. If they are low risk, then they would not normally be assigned a correctional program. We found that 70% of women offenders were assigned a correctional program. That's 20% more than we would have expected.

As well, the department has developed a new tool, the CRI, to assign correctional programs to women offenders, and to indigenous offenders. They have piloted the use of that tool and found that it will result in significantly fewer women being assigned to its moderate-intensity correctional program, but also many more, twice as many, will be assigned to high-intensity correctional programs.

**Mr. Martin Shields:** As I listened to you and read that, I thought it was two individual things. What you've done is you've tied it together. When you read this, it sounded like you were talking of two things: one, the security level; and two, the programming. What you're saying is that they're tied together.

That isn't clear in the way it reads. It sounded like two separate things.

**Ms. Carol McCalla:** They should be using two separate things.

**Mr. Martin Shields:** Right, but you've tied it together.

I'll go back to the psychiatric services. In the public health sector, psychiatric specialists are the rarest of rare to find. How would you find more for this sector?

**Mr. Michael Ferguson:** That is obviously an issue that the department's going to need to deal with. Again, a high percentage of the people they are dealing with have mental health issues or serious mental health issues. Certainly trying to match that demand for those services with the supply for those services is a particular challenge.

I think the first thing is just to recognize that they do have to deal with this population. They're not really very well set up to deal with

a population that has a high level of mental illness, people who are at risk of self-harm or of attempting suicide, but they have those people whom they have to deal with.

Obviously, there are only the service providers out there that actually exist, and as you say, there will be competing demand for them. Correctional services have a high population of people with serious mental health issues.

**The Chair:** Thank you very much.

We're now going to move on to Sheila Malcolmson for her seven minutes.

**Ms. Sheila Malcolmson (Nanaimo—Ladysmith, NDP):** Thank you, Chair.

Thank you to the witnesses, and thank you to the Auditor General for the work that you've done.

Last week, we had witnesses from Correctional Service of Canada. The senior deputy commissioner was here, and she said:

Our approach to working with indigenous women is holistic and women-centred, and is built to address their unique needs and contribute to their safe and timely reintegration into the community. ...CSC has a stream of correctional programs specifically designed for them....

Does that line up with your findings?

**Mr. Michael Ferguson:** What I would say is that I think it would line up with what they told us they were trying to do. I think we identified a number of places where they're not there yet.

Again, when the tool was to assign security levels, it was one that was based on assigning security levels to men offenders rather than women offenders. When you see the issues that Ms. McCalla just talked about in terms of the programs that were assigned, women indigenous offenders in particular don't have the same access to healing lodges. The healing lodges are only available in a few places.

I wouldn't dispute that this is what they are trying to do, but I think we identified that there were a number of places where they haven't yet succeeded in doing it.

**Ms. Sheila Malcolmson:** Thanks.

I read a report from this summer from the Native Women's Association of Canada. It found that not only do federally sentenced indigenous women not have access to adequate programs and services while imprisoned, but the programs that do exist are neither culturally appropriate nor geared towards reintegration.

Does that line up with your findings?

• (1210)

**Mr. Michael Ferguson:** I'll ask Ms. McCalla to provide details.

Again, we found that the Correctional Service does have culturally appropriate programs in place, but not all women offenders are participating in those programs. Sometimes they choose to participate in the general programs rather than the culturally appropriate programs. It may be, in some cases, that if the general programs are available earlier on, then it would speed up the chance of the offender being prepared for parole if they take the general rather than the culturally appropriate program.

I think they did spend time preparing culturally appropriate programs, but not all women offenders participate in those programs.

Again, I'll ask Ms. McCalla to provide more detail.

**Ms. Carol McCalla:** We found that the challenge the Correctional Service has in offering its culturally specific programs, which it has developed and has found to be effective, is the low number of women offenders in some of its institutions. The majority of indigenous offenders are in the prairie provinces, and in its other regional institutions there are small numbers of indigenous offenders. Therefore, they have a challenge in having enough offenders ready to start a program at one time, so they may opt to take the general stream of correctional programming so that they can get it sooner.

We've made recommendations to CSC to come up with some options so that they can provide the programs to indigenous women who are interested in taking them.

**Ms. Sheila Malcolmson:** Thanks.

I can't remember which of you referenced that first nations women are held at a higher level of security than non-indigenous women.

Did you find a rationale for that?

**Ms. Carol McCalla:** We had looked at how many indigenous women offenders in general overall, over the last three years, were assigned to higher levels of security. We found, in general, that indigenous women offenders were held at higher levels of security on average than non-indigenous women offenders.

When we brought that to CSC, they told us that indigenous women and indigenous men in general pose higher security risks, and that's how the tool rates their security risk. It looks at factors like age at first offence and whether there was violence involved in their offence. Those are the factors it weighs in determining the security classification.

Our argument in the indigenous offenders audit, which looked at that, stated that there should be other considerations used to weigh the results of the tool to consider the offender's aboriginal social history in order to identify alternatives to those higher security ratings.

**Ms. Sheila Malcolmson:** I am elected in British Columbia. There is a drug epidemic, opioid overdose and addiction epidemic that, in the Downtown Eastside, has hit indigenous women particularly hard. Some of the treating doctors have said that they have not seen a single one of their patients who was not a victim of childhood sexual abuse, that there is such a link between that early trauma damage and addiction.

In any of your investigations, have you come across that kind of correlation—childhood trauma and the role of mental health in entering the criminal justice system?

**Ms. Carol McCalla:** We definitely saw that the incidence of physical and sexual abuse was very high among women offenders.

They, themselves, have been victims of crime, in some cases at a very early age. We didn't examine that specifically, but we did notice it in the files. That was, in part, to be addressed by the correctional programs that CSC offers.

**Ms. Sheila Malcolmson:** Did you get feedback from those incarcerated that they were getting access to that help while being held?

**Ms. Carol McCalla:** We didn't meet with offenders as part of our audit, but we did meet with the elders who were working with the indigenous women, and they told us that this is primarily the very first thing they deal with.

**The Chair:** Thank you very much.

We are now going to move on to Emmanuella Lambropoulos for her seven minutes.

**Ms. Emmanuella Lambropoulos (Saint-Laurent, Lib.):** Hello. Thank you for being with us today.

I have a couple of questions.

First, you mentioned that, generally, women have a low reoffending rate. Is that what you said?

•(1215)

**Ms. Carol McCalla:** Yes.

**Ms. Emmanuella Lambropoulos:** Okay, I'm just making sure.

I want to know whether you noticed a significant difference between women who participate in healing lodges and those who don't, if already the rate is pretty low.

**Ms. Carol McCalla:** We did find that offenders, not just women but men, who participate in healing lodges have very low rates of reoffending upon release.

**Ms. Emmanuella Lambropoulos:** You do see a difference between those who do and those who don't.

**Ms. Carol McCalla:** Yes.

**Ms. Emmanuella Lambropoulos:** You also mentioned that there are culturally specific programs that are often offered in healing lodges but also in other institutions. Is that correct?

**Ms. Carol McCalla:** Yes.

**Ms. Emmanuella Lambropoulos:** From what I understand, you said that the reason for not having it other than in the Prairies or in one specific region is that there aren't enough. Do we know how many need to be in a specific institution in order to have these services offered?

**Ms. Carol McCalla:** CSC is flexible about how many women it would need in order to start a program. Normally, they like to hold a program with about eight or 10 women, because they use a sharing approach, but they have been running their programs with four or five. They are flexible in that.

In some of their institutions, say in Atlantic Canada, there were maybe only two or three indigenous women. We noted in our audit that there were six offenders one year who had all been working with the elder but none of them had participated in indigenous programs, which we would have expected them to if they were working with an elder and had a healing plan documented in their file.

It's a matter of CSC ensuring that they can ramp up the resources for these women. Technically, these programs are available at each of their institutions. We just didn't necessarily see them being offered where we would have expected them to be offered.

**Ms. Emmanuella Lambropoulos:** Thank you.

Can you give us examples of what these culturally specific programs look like? You mentioned the elder and communication group sessions. Is there anything more concrete than that?

**Ms. Carol McCalla:** What these programs do... They call it a "continuum of care". It's a holistic approach to healing. The correctional programs for women offenders are co-facilitated by an elder. I think that 50% to 80% of the time the program sessions have an elder with them. They have ceremonies and a culturally appropriate approach, which is very much driven by the elder.

**Ms. Emmanuella Lambropoulos:** Thank you.

I'm going to pass on the rest of my time to Eva Nassif.

[*Translation*]

**Mrs. Eva Nassif (Vimy, Lib.):** Thank you very much for being with us and for answering our questions.

My first question is for Mr. Ferguson.

I have not had time to read the report, but I apprised myself of your recommendations, which arise from the observations you made about the detention conditions of indigenous women.

Could you mention some of the programs that are not accessible, or that are not available when they are needed for indigenous women offenders?

**Mr. Michael Ferguson:** Overall we indicated that although these are programs for indigenous women offenders, they are not always available when they are needed. And so it is not possible for these inmates to begin these programs when they need to try to solve their particular situation. There are appropriate programs that exist for these inmates, but they are not available at the proper time.

**Mrs. Eva Nassif:** Ms. McCalla, do you want to add something to what Mr. Ferguson said concerning the conditions that led him to make these recommendations?

**Ms. Carol McCalla:** Concerning program delivery?

• (1220)

**Mrs. Eva Nassif:** Precisely.

**Ms. Carol McCalla:** We noted, for instance, that it takes a lot of time to complete each program. It can take around five months. Most

women are ready to be released in less than one year and so they cannot finish a program they begin before the date of their release.

We therefore recommended that Correctional Service Canada examine, on the one hand, the time needed to complete the programs, and on the other, the possibility of beginning them earlier during their detention period.

**Mrs. Eva Nassif:** Do I have time for another question, Madam Chair?

**The Chair:** You have time to ask one other question.

**Mrs. Eva Nassif:** My question will be for Mr. Ferguson, and it concerns the appropriate measures to be taken to identify the women offenders who need mental health services.

Mr. Ferguson, what led you to make these recommendations concerning these women offenders?

**Mr. Michael Ferguson:** In the case of these offenders, we detected a lack of mental health services, particularly as concerns personnel. The positions exist but they are vacant.

Moreover, Correctional Service Canada uses segregation cells to try to manage the offenders who have mental health issues. This is not an adequate environment to manage this type of person. There are vacant positions that must be filled so that Correctional Service Canada can have the necessary staff to provide these services. It is not appropriate either that Correctional Service Canada uses segregation cells to manage the women who suffer from these problems.

**Mrs. Eva Nassif:** Thank you very much.

[*English*]

**The Chair:** That's excellent. Thank you so much.

Now, we have an important time. Are you able to stay with us for the next 40 minutes, Mr. Ferguson?

**Mr. Michael Ferguson:** It's whatever the committee wishes.

**The Chair:** With all the excellent answers we are getting, I believe that would be wonderful, if you wouldn't mind staying with Ms. McCalla.

What we're going to do is suspend for about 35 seconds—and I'm counting—and we're going to ask the additional members to join the panel. They will be given seven minutes to provide their statements and then we'll go a round with question period. We are suspending for seconds.

• (1220)

\_\_\_\_\_ (Pause) \_\_\_\_\_

• (1220)

**The Chair:** We're going back into session now. Thank you very much.

I will start by introducing Elizabeth Hendy. She is the director general of the programs branch in the policy sector of the Department of Justice.

From the Royal Canadian Mounted Police, we have Shirley Cuillierrier, who is the assistant commissioner and senior adviser on reconciliation and the National Inquiry into Missing and Murdered Indigenous Women and Girls.

We will start with Elizabeth, for seven minutes.

**Ms. Elizabeth Hendy (Director General, Programs Branch, Policy Sector, Department of Justice):** Thank you very much for the opportunity to speak to you about this important issue.

As indicated, I am Elizabeth Hendy. I am the director general of the programs branch within the Department of Justice. My branch is responsible for the management of all grants and contribution programs administered by the department. Many of our programs provide support to indigenous women in contact with the criminal justice system—whether they are accused persons, victims, witnesses, or family members—and they attempt to specifically address the underlying issues that are resulting and contributing to crime.

I will start with a short explanation of the various funds that we administer and then provide you with a little bit more detail.

For indigenous people who are accused of a crime, the department works with the provinces and territories to support the indigenous court work program. This program helps indigenous persons involved in the criminal justice system to obtain fair, just, equitable, and culturally relevant treatment.

As well, we administer the indigenous justice program, or the IJP, formerly called the aboriginal justice strategy. This provides cost-effective, culturally relevant alternatives to the mainstream justice program in appropriate circumstances where we are trying to promote meaningful reparation of harm for the victims, offenders, and the communities. The department also provides criminal legal aid funding that can assist low-income accused.

For victims of crime, the department provides funding for culturally relevant victim supports and specific funding for family information liaison units and community-based programs in parallel to the National Inquiry into Missing and Murdered Indigenous Women and Girls through our victims fund.

Finally, through our justice partnership and innovation program, we provide funding to address the important issues of violence against indigenous women and girls, family violence, and missing and murdered women and girls.

I'll now provide you a bit of information about these programs.

The indigenous court work program has been operating since 1978, and we will be celebrating the 40th anniversary of this much-needed program in 2018. This program assists indigenous adults and youth who are charged with an offence or otherwise involved in the criminal justice system in obtaining fair, just, equitable, and culturally relevant treatment.

What does that mean? It means that if an individual is in a courtroom and they look indigenous, a court worker is going to go to them to help them and try to figure out if they know why they're there, why they've been charged, and what their rights and responsibilities are, as well as whether they've been given access

to legal aid and have a lawyer. We're going to work with them to try to get them through the court process as quickly as possible, in a way that is culturally relevant and that hopefully will not lead to their incarceration.

With court worker services, individuals are getting more information on their charges. They're understanding the court procedures. They're understanding their rights and responsibilities, and perhaps for the first time, they're understanding that there are community justice alternatives that they could be accessing. They're also getting access to support for legal resources and having a better understanding of what's happening with the court officials, the accused, and the family members.

The indigenous court work program operates in every province and territory, with the exception of Newfoundland and Labrador, Prince Edward Island, and New Brunswick, but we are working with those provinces to see if we can bring them into the program.

Annually, 55,000 to 60,000 individuals are served by the court work program. Of those individuals, 17,000 are indigenous women—accused persons, victims, witnesses, or family members—and they are receiving services from a court worker on an annual basis. Of the overall population served by the court work program, 32% are women. Currently there are 198 indigenous court workers across the country, and 70% of those individuals are indigenous women trying to help their colleagues within their communities.

Indigenous court work program clients will benefit from an increased understanding of the criminal justice system and increased awareness of their rights and their obligations and the social services available to them.

Another key program is the indigenous justice program, which supports innovative, community-based justice programming that is helping to address the overrepresentation of indigenous women in the criminal justice system. This program has been in operation since 1991 and is delivered in partnership with all provinces and territories. It offers a variety of services for offenders, including healing and sentencing circles with victims and community members, letters of apology, restitution, on-the-land healing, community service, referral to drug and alcohol counselling, and victim-offender mediation.

Budget 2017 provided an ongoing permanent mandate for this program, and currently there are about 197 federally supported community justice programs across the country, reaching close to 750 indigenous communities and serving over 9,000 clients annually.

● (1225)

Community justice programs work to address the root causes and tailor approaches to the circumstances of offenders, the needs of the individual, and most importantly, the justice values of the communities that they serve.

The outcomes for the participants going through these programs are quite impressive; 89% of the clients who are diverted to a community justice program have successfully completed their justice processes and client obligations and are not incarcerated as a result. From a recidivism point of view, 43% of those who have completed the program are less likely to reoffend than are those who did not participate.

When it comes to legal aid, the federal government works with the provinces and territories to provide specialized culturally appropriate services for indigenous people, including indigenous women facing criminal charges.

I also would like to briefly talk about our victims fund. We are also providing support for victims of crime. In particular, as I mentioned, there are the family information liaison units, or the FILUs, that we are working with in parallel with the national inquiry. Through our justice partnership and innovation program, we are also attempting to raise awareness about reducing violence against indigenous women, address family violence within communities, and help to address the issue of missing and murdered indigenous women and girls.

I'll end it there, but I hope you have been able understand somewhat that the Department of Justice is attempting to work with our provinces and territories, most importantly with indigenous communities, to provide funding to assist in addressing the overrepresentation of indigenous women. Albeit with limited funding, we are attempting to listen to the communities with regard to what they need to better manage these individuals.

I look forward to any questions you may have.

• (1230)

**The Chair:** Excellent. Thank you so much.

Now we're going to move over for seven minutes with Shirley.

Thank you.

[Translation]

**Superintendent Shirley Cuillierrier (Assistant Commissioner, Senior Advisor on Reconciliation and the National Inquiry on Missing and Murdered Indigenous Women and Girls, Royal Canadian Mounted Police):** Good afternoon, Madam Chair and honourable committee members.

I would like to thank you for the invitation to speak to you on your important study on indigenous women in the federal justice and correctional system.

I would also like to acknowledge that we are meeting on unceded traditional Algonquin territory.

[English]

My name is Shirley Cuillierrier. I am the senior adviser on reconciliation in the National Inquiry into Missing and Murdered Indigenous Women and Girls. I am a Mohawk woman and a member of the Kanesatake First Nation. My traditional name, given to me by my *tota*, is Kwanarataionne.

[Translation]

The safety and well-being of indigenous women and girls remains a priority of the RCMP. As such, the RCMP recognizes that in order to best serve and protect indigenous women and girls, ongoing work is required to foster and maintain respectful and trusting relationships with indigenous people.

Although the RCMP has a long history of working co-operatively with indigenous people, for some there remains a feeling of fear and distrust towards the police and the criminal justice system.

[English]

In 2013, the RCMP took leadership on the issue of violence against indigenous women and girls by undertaking a comprehensive study on police-reported incidents. The research consolidated data from police agencies and Statistics Canada. The results collected enabled the RCMP to gain insight into the vulnerability faced by indigenous women and the disproportionality of their victimization. The study aimed to provide a better understanding of the root causes of victimization, and highlighted the need to adopt a multi-disciplinary, whole-of-government approach.

[Translation]

The RCMP is committed to working in collaboration with indigenous communities, partners and stakeholders and indigenous organizations, to ensure that they provide policing services that are transparent, responsive, respectful and culturally appropriate.

For the RCMP, trust and transparency in processes means that everyone, especially the most vulnerable populations, feel safe and confident in reporting crime. When filing a police report, complainants need to feel safe, respected, believed, and trust that appropriate action and follow-up will take place.

[English]

For example, in Nova Scotia people now have the option to affirm their oaths or give their statements using the sacred eagle feather. Adopting this traditional practice serves to increase the comfort of the victim, witnesses, and the accused.

The RCMP updated its missing persons policy. The policy emphasizes that missing persons cases must be given priority, and ensures it is supported by the necessary level of supervision throughout the course of the investigation. It requires ongoing and timely communication with the family or reporting parties and ensures that support to families be accessible if required, including referrals to culturally appropriate victim services. The RCMP has implemented a standardized risk assessment tool for missing persons investigations.

The RCMP continues to work toward building trust and confidence within indigenous communities through efforts such as identifying communities vulnerable to violence against indigenous women and girls. Through the identification, the RCMP has been able to focus prevention, intervention, and enforcement efforts to reduce vulnerabilities and incidents of violence against women and girls.

•(1235)

The RCMP has also aligned funding provided under the family violence initiative to support community-led programs within these communities. One such program, led by subject matter expert Diane Redsky uses community forums to help raise awareness about the risks of violence against women, sexual exploitation, and human trafficking. The forums bring community members together to provide crucial information on how indigenous women and girls can protect themselves. The community forums can also lay the foundation for the development of community action plans, a community specific plan that focuses on these critical issues.

[Translation]

A National Indigenous Liaison position has been created to support regular and transparent communication with indigenous leadership. Furthermore, the RCMP and the Assembly of First Nations have signed a relationship building protocol to promote relationship building and co-operation in policing matters between first nations and the RCMP. The RCMP has formed various committees which provide opportunities for expert exchange of ideas and opportunities.

[English]

The RCMP provides cultural awareness training to all its employees, with the belief that it is important to understand and be sensitive to the history of colonialism and discrimination that indigenous communities have faced. Many of the socio-economic conditions that continue to plague indigenous communities have made indigenous women and girls vulnerable to violent victimization.

Of particular importance to your area of study, the RCMP has engaged in a variety of restorative justice programs across Canada. Pre-charge restorative justice practices can divert offenders from the formal criminal justice system and provide opportunities for reconciliation between victims and offenders. The RCMP supports these practices and believes they are very beneficial to indigenous women by diverting them from criminal charges. It also protects them from harm through reconciliation and restoration. For example, the RCMP is working with the indigenous justice program to establish programs in Nova Scotia and Manitoba.

[Translation]

I would like to thank you for the opportunity to speak to you today and to share with you our commitment to improve the justice system for indigenous women.

[English]

Recognizing the complexity of this issue, the RCMP understands that a whole-of-government approach is necessary to create effective and lasting change. The RCMP is committed to working closely with our federal and provincial partners and most importantly with indigenous women and girls, who bring experience and expertise to your areas of study.

Thank you.

**The Chair:** Thank you very much for the presentations.

We're now going to begin our first round of questioning.

Bernadette Jordan has the first seven minutes.

**Mrs. Bernadette Jordan (South Shore—St. Margarets, Lib.):** Thank you, Madam Chair.

Thank you to all the witnesses for appearing today. It's been very interesting.

Ms. Hendy, when you were talking about the aboriginal court work program, you said if they look indigenous you approach them to see if they know about the program. I find that quite an interesting comment. I'd also like to know what you do if they don't look indigenous.

**Ms. Elizabeth Hendy:** That was a very bad choice of words on my part.

A lot of people don't identify as to whether they're indigenous or not. The court workers are from the community, so they basically know who is indigenous. They will approach these individuals. Some of these individuals wouldn't know that they could have assistance in the courtroom, so they do approach them.

Many court workers will approach everybody in the courtroom and ask if they need assistance—women in particular—and then they will walk them through the process.

•(1240)

**Mrs. Bernadette Jordan:** Do you educate legal aid and all of those people with regard to these programs and what's available?

**Ms. Elizabeth Hendy:** Yes, absolutely.

**Mrs. Bernadette Jordan:** All right.

With regard to your indigenous justice program, you provide funding for community-based programs that use restorative justice approaches as an alternative to the mainstream justice system. What are the community guidelines for implementing those approaches?

**Ms. Elizabeth Hendy:** Those programs are based on the needs of each community.

**Mrs. Bernadette Jordan:** They're different everywhere.

**Ms. Elizabeth Hendy:** Sometimes they're reintegration programs. There are diversion programs and prevention programs. It truly depends on what is the need of the community and the offender population within that community.

**Mrs. Bernadette Jordan:** Thank you very much.

I'm going to you, Shirley. In your statement, you said that although the RCMP has a long history of working co-operatively with Indigenous people, for some, there remains a feeling of fear and distrust towards the police and criminal justice system. How do we overcome that?

That's a big question.

**Supt Shirley Cuillierrier:** It is a big question. I think that at the root of it is education. I think we have a lot of work to do on that front.

As much as I feel that our organization is doing a lot, every now and then I'm surprised by the comments that are made. I really do think that education is at the root of this. I think of the TRC report and the 94 calls to action. A lot of it is premised on education. I think of it reciprocally because, with a foot in both worlds, sometimes it's incumbent on indigenous people as well, perhaps, to understand why systems are the way they are.

**Mrs. Bernadette Jordan:** Further to that question, one of the things you said was that police provide a transparent, responsive, respectful, and culturally appropriate response.

I guess I'm wondering about the training that goes into the culturally appropriate responses. Is there a good training program? Could it be better? When we're trying to find ways to get rid of distrust, it would seem to me that if we can speak culturally appropriately on each thing.... I'm wondering where the training is on that. Is there a good training program? Do you feel that it needs work?

**Supt Shirley Cuillierrier:** We use a multitude of programs, and we consult quite a bit before we engage in any process. As an example, the Kairos blanket exercise is very well used, both at a community level and with federal departments right now. We introduced it this past week at our training academy in Regina, and it's going to be something that's mandatory for every troop coming through depot going forward.

Then, when you graduate from the training academy and you're deployed somewhere in the country, it's important to have additional training within the region or the nation, or perhaps if you're working with Inuit or Métis. You need to be able to understand the traditional practices of that community, whether it's going to have tea with an elder or accessing what we have in many of our provinces, which is regionally specific training called "aboriginal perceptions training" for our members and our employees who are working in that area.

**Mrs. Bernadette Jordan:** I want to ask about the restorative justice programs you're involved with. Has there been time to do a study to show the percentage of people who reoffend and have gone through restorative justice, as opposed to those who have not?

**Supt Shirley Cuillierrier:** We're not that far down the road. Essentially, I call it dusting off and re-evaluating. We're working quite a bit with Justice, both federally and in some cases at a provincial level—in Nova Scotia and Manitoba—to try to increase our referrals, but we have to build structures at the community level and essentially get the buy-in from the community, right? We're in the process of redesigning strategies and the consultation base.

•(1245)

**Mrs. Bernadette Jordan:** I'm just going to go back Ms. Hendy. With regard to the justice partnership and innovation program's goal of reducing the vulnerability of young indigenous women, are we talking economic empowerment or education? What are we doing to address the systemic problems?

**Ms. Elizabeth Hendy:** That is a big question. It's based on a call for proposals, so it would depend on what comes in. Sometimes it's awareness building. Sometimes it's working with women within the community to set up new protocols, depending on whether it's family violence, depending on what the issue is. It's very project-specific, but the overall objective of that fund is to figure out what we could

do to help address the systemic issues. We're working with each individual community that we can. We have limited funding, but we're doing what we can based on the needs expressed to us through calls for proposals.

**The Chair:** Excellent. Thank you very much.

We're now going to move to Rachael Harder for seven minutes.

**Ms. Rachael Harder (Lethbridge, CPC):** Thank you.

I'm going to ask my first question to the Auditor General.

I know, under the former Conservative government, that one of the initiatives that was put forward was to increase the number of healing lodges available. I'm just wondering if you can maybe give some background as to why that was thought to be important in terms of policy with regard to indigenous peoples.

**Ms. Carol McCalla:** Certainly, there have been recommendations made in the past to increase the number of healing lodges available, particularly for women offenders. There are only two healing lodges that operate for women offenders, one in Saskatchewan and one in Manitoba. Those two healing lodges are operating at capacity.

The problem, again, that CSC has is the low number of indigenous offenders in other regions of Canada. The healing lodges involve a very intensive approach working with elders. We have recommended to them that they come up with options to provide greater access to healing lodges for indigenous women. It was one of the calls to action from the Truth and Reconciliation Commission as well.

**Ms. Rachael Harder:** Okay, that's good. Thank you.

My next question is going to go to the justice department. I just want to talk a little bit about the Gladue principle, which is basically the idea that judges are meant to consider the intergenerational trauma of indigenous offenders in order to best sentence them and provide rehabilitation programs to them.

Now, some have said, or made the accusation, that this is basically a race-based discount on sentencing. Can you just comment on that and maybe just talk a bit about what the Gladue principle is trying to accomplish and how that fits within our constitutional framework?

**Ms. Elizabeth Hendy:** Okay. I'll preface my remarks by saying that I'm not with criminal law policy. I'm implementing the law; I'm not designing the law. But in my understanding of the Gladue principle, section 718.2, paragraph (e) of the Criminal Code, it is to give special consideration to indigenous offenders to better understand the underlying conditions leading to crime. No, it is not a race discount. That section is open to all offenders with special consideration to indigenous...so it is open to everybody.

We understand that judges are looking for the factors contributing to crime. If a judge has a better understanding of the social history of the individual... Gladue reports are very different than a pre-sentence report. A pre-sentence report would give you risk factors. A Gladue report would give a very detailed history of the individual from childhood to where they now within the system, and what impacts in their history could have led to this crime. Are there addictions or mental health issues? Are there family trauma issues? Was there residential school or something there? If a judge has a better understanding of what perhaps led to the crime, then that can help set better conditions for sentencing.

Also, it can help our colleagues at Correctional Service Canada. The Gladue report can be given to the Correctional Service. They could then use that in combination with their social history reports to better set up case management plans for these individuals when they are in the facility. They then can use the Gladue report, because there will be recommendations in there on what would be appropriate for when they go back into the community. Therefore, you can start planning for their reintegration and use that information to better work with the individual when they are back in the community and, hopefully, prevent recidivism and the issues that led to crime in the first place.

I'm not a lawyer, but I would strongly state that a Gladue report is not a discount. It is a document that helps the judiciary in making an informed decision, and it places better conditions on that individual to account for criminality and to hopefully rehabilitate the individual so that we don't see them back before the court.

• (1250)

**Ms. Rachael Harder:** Thank you.

Along those same lines then, one thing that was talked about was the fact that many of these indigenous women who are incarcerated—the vast majority, it could be argued—report that they were abused or victimized sometime in their past. It would appear that there's a link between being victimized and then being a perpetrator yourself.

I'm just wondering if you can comment on how the justice system within Canada could better help these women to come forward with their stories when they're victims, in order to seek the help they need at that point in time, both on a justice side of things, of course, in making sure that the accused is brought to justice, but also to make sure that these individuals are given the assistance that they need to come through to the other side of healing and restoration for themselves, for their own lives. Are you able to comment on that?

**Ms. Elizabeth Hendy:** Absolutely. In fact, most indigenous people who come before the criminal justice system, you could argue, are victims themselves, whether they are there as an offender or a victim at the time. Therefore, through our victims fund we are trying to work with victims services across the country to set up programming to better help these individuals heal.

Our family information liaison units that we've set up in relation to the national inquiry is a good example of how we're trying to work from the victim's perspective. Individuals are looking for information about their missing and murdered loved ones. Perhaps they didn't have the information given to them appropriately the first time. Perhaps they didn't understand it. Perhaps they were told they couldn't have that information. Therefore, through the FILUs we're

trying to work with them and refer them back to the appropriate source—perhaps it could be with the police, or it could be with social services—so that they can get a better understanding of what happened, why they can't have the information, or where they could go to get that information.

Definitely we're trying to have a full perspective in trying to heal communities and individuals.

**Ms. Rachael Harder:** Thank you.

I have just a very quick question for the RCMP. Can you just give a bit of background in terms of these missing and murdered aboriginal women? Are there trends in terms of their backgrounds, where they come from, what their home lives were like, etc.?

**Supt Shirley Cuillierrier:** We haven't done that analysis. We're monitoring all of the family hearings that are going on, and we're certainly reviewing the files that implicate the RCMP.

When we did our operational overview back in 2014, we actually delved a bit more into the numbers. We recognized that there were some communities in the country that were particularly vulnerable, and that's where we sent our subject matter experts to work with the communities, to talk about human trafficking, sexual exploitation, and to try to build some capacity at the community level and also a recognition that there's a high level of violence in this community against your women and your girls. How are we going to work together to deal with the root causes?

Sometimes it's signalling and then getting in the community to actually mobilize people around the issue, but—

**The Chair:** We're going to have to go to our next line of questioning. I let you go over a little bit.

Perhaps we could move to Sheila Malcolmson for her seven minutes.

**Ms. Sheila Malcolmson:** Thank you, Chair.

Thank you to all the witnesses. My questions could go to the RCMP or the Department of Justice, so I'd invite you both.

In the last month's interim report of the inquiry into murdered and missing indigenous women, in its recommendation 9, asked:

That the federal government work collaboratively with provinces and territories to create a national police task force to which the National Inquiry could refer families and survivors to assess or reopen cases or review investigations.

Head Commissioner Buller said, "We don't have a police force arm to work with us to help survivors and families get those answers."

I have two questions. Do you agree that would be of utility? Do you have any sense of whether the federal government is moving towards a response to that ask from the inquiry?

**Supt Shirley Cuillierrier:** We're currently reviewing all the recommendations in the interim reports.

I can speak for the RCMP. We have a team in place in Ottawa, and we're working with all of our divisions in relation to any of the RCMP cases that are being either talked about in camera at the family hearings, and/or if the families come forward and don't necessarily attend the family hearings. If they come through the FILUs, we also have one employee who is working full time with the Department of Justice and the FILUs to ensure that when it comes to an RCMP investigation, the linkage is made for the FILU to the family to the primary investigator of the RCMP.

We have structures in place already, perhaps not as well understood by the commissioners of the national inquiry. However, in relation to the RCMP, we are in position right now to meet with the families and to provide them with the information they are seeking about their loved one.

● (1255)

**Ms. Sheila Malcolmson:** Beyond providing information, if through the work of the inquiry there are cases that the family wants to reopen or to review, then the mechanism is already there if it was an RCMP case.

**Supt Shirley Cuillierrier:** I mean, we are reviewing the file. If the cause of death has been determined by a coroner, we're not in a position to reopen the file. We're happy to meet with the family and explain to them what our role has been, and explain to the FILU that perhaps they need to be in touch with the coroner's office.

**Ms. Sheila Malcolmson:** Is there any response from Justice on that recommendation, whether it's helpful and whether it might be acceded to?

**Ms. Elizabeth Hendy:** I would have no comment. I would defer to the RCMP.

**Ms. Sheila Malcolmson:** Okay, thanks.

Are you hearing from families, where the RCMP was not the investigating police force, that they have a need for a mechanism such as this?

**Supt Shirley Cuillierrier:** What's available to families, let's say in Quebec or Ontario where the RCMP is not the police of jurisdiction, is the FILU network. Again, that's being funded by the Department of Justice.

In my understanding, the FILUs are working very closely with the Ontario Provincial Police in Ontario and the Sûreté du Québec in Quebec, again for the same purpose, to be able to make sure that the families are in contact with the police of jurisdiction.

**Ms. Sheila Malcolmson:** In February, there was a *Globe and Mail* report on unfounded cases of sexual assault allegations. The national police data, as part of the 20-month investigation that the *Globe* did, revealed that one out of every five sexual assault allegations in Canada had been dismissed as baseless and therefore unfounded.

Our committee here, just a month later, made two recommendations in this area. One was that the Minister of Public Safety and Emergency Preparedness and the Minister of Justice work in partnership with the provinces, territories, and first nations communities to develop strategies to deal with sexual assault cases, and to ensure police and prosecutors use a common set of practices in dealing with the survivors of sexual violence.

Then a second recommendation, number 31, was:

That the Government of Canada, through the Department of Justice, in collaboration with the [RCMP], establish sexual assault advocates within law enforcement and legal bodies, and that the role of the advocate be to: ensure that the complainant is cognisant of the full range of existing laws, services and options available to survivors of sexual assault as they move through the legal system, including options outside of the existing criminal justice system; and to ensure that there is a trauma-informed and survivor-centric approach throughout the legal process.

Is that something that either of you have been involved with in the consideration of those recommendations? Do you have a sense from the victims you might have spoken with that there would be an appetite for such action on the part of the federal government?

**Supt Shirley Cuillierrier:** The RCMP actually put together a team to review sexual assaults after *The Globe and Mail* article came out. That analysis is still ongoing. I am aware that there is a report that is going to be generated by the work of that team. I don't know when the report is going to be released.

I do think there is an opportunity, for sure, to look at training for investigators and to be able to leverage victim services with an approach that is trauma-informed. I go to the example that we have in the Yukon where the RCMP has partnered with the women's transition centre. In the Yukon they're allowing for third-party reporting. A complaint can come to the police without the victim being identified, and that is working very well. That's a strategy that we're actually exploring at this point in time. Conversations are certainly being had both with Status of Women Canada and with our provincial partners.

● (1300)

**The Chair:** Excellent. Thank you very much.

We're going to end today's session. It has been an excellent panel. I know that all members of this group have found great information.

Just to let you know, the clerk has been in contact with INAC and they will be coming to visit us in January or February. We will be seeing them. That has been confirmed. We're just waiting for a time.

Once again I'd really like to thank the panellists. Thank you very much to the Auditor General, the RCMP, as well as the Department of Justice. It's wonderful to have you here.

Today's meeting is adjourned.







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