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**Chair**

**Mrs. Karen Vecchio**



## Standing Committee on the Status of Women

Tuesday, December 12, 2017

• (1100)

[English]

**The Chair (Mrs. Karen Vecchio (Elgin—Middlesex—London, CPC)):** Good morning, everybody. We're going to begin today's meeting as we continue to study indigenous women in the federal justice and correctional systems.

Today we have a few substitutions. I'd like to welcome Kelly Block, but it looks like the rest of the group is as usual.

We're going to have two panels. We're going to start with Rajwanti Mangat, from the West Coast Women's Legal Education and Action Fund, and Jennifer Metcalfe, from Prisoners' Legal Services.

We are going to start via video conference with Jennifer Metcalfe, who is from the West Coast Prison Justice Society.

You have seven minutes.

Go right ahead.

**Ms. Jennifer Metcalfe (Executive Director, West Coast Prison Justice Society/Prisoners' Legal Services):** Thank you very much for this opportunity to appear before this committee. Thank you for initiating this study on indigenous women in the federal justice and correctional systems. I am the executive director of Prisoners' Legal Services, which is the only full legal aid clinic for prisoners in Canada.

We provide legal services to federal and provincial prisoners in British Columbia on issues that affect their liberty rights as well as some health care and human rights issues. In the past year, we have assisted prisoners with 2,462 legal issues.

In preparing for today, I attended our legal aid clinic at the Fraser Valley Institution for Women with some indigenous women in the maximum and medium security unit. On the day I visited, all the women in maximum security were indigenous. They told me that the design of the units meant there were too few women to interact with. The max unit holds approximately six women on each of two sides, which makes them feel isolated and leads to conflict. One prisoner said that officers looked at them as if they were in a zoo and they weren't treated like human beings.

The max units are behind glass walls with the officers on the other side of the glass. Prisoners commented that the officers do not interact with them except for security purposes. Indigenous women in both maximum and medium security talked about a lack of trust between indigenous prisoners and staff. They felt there was a lot of

racism and discrimination against them by officers. One woman said they build relationships with each other and are accused of being in a game when they're not. They separate people who had bonded and supported each other.

They also felt that staff do not really apply aboriginal social history and that Gladue factors are often used against them in their security classification. The women I spoke with thought there were not enough indigenous programs at FVI, especially in the maximum security units. There's only one elder who is stretched too thin. They feel it isn't possible to deal with their trauma and abuse at FVI and the problems just open up wounds and make it more difficult to function in a security-driven environment. That isn't healing, one woman said. Many indigenous women stay in prison until their statutory release dates and feel set up to fail in the community without enough support or healing.

They said they need more one-on-one trauma and abuse counselling with mental health professionals from the outside. One woman said they need more indigenous-run healing lodges. She said the Okimaw Ohci Healing Lodge in Saskatchewan is great. She said that 60% of the staff are aboriginal and they understand what it's like to be on reserve. She said people who work here at FVI aren't sensitive to that and tell us to get over it.

Many of the women I spoke with talked about needing more access to their kids and families and connections with their homes and bands. Many talked about not having enough money to even make a phone call home. They talked about the barriers to having visits with family members if they have criminal records and not being approved for temporary absences home because it's too far. The women also felt they had too few opportunities for job skills training or for education beyond grade 12. I hope this committee will seek the voices of indigenous women prisoners during the course of this study.

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

The overrepresentation of indigenous people in prison is a continuation of the genocidal practice of residential schools. It continues to separate parents from their children, and it fails to create an environment of trust and respect where healing might be possible. Many children of incarcerated indigenous mothers will be placed in foster care. An indigenous woman parolee in the 1990 report "Creating Choices" asked how they can be healed by those who symbolize the worst experiences of their past.

"Creating Choices" also notes that the indigenous people consulted by the task force on federally sentenced women stressed that the concept of punishment is alien to the aboriginal culture. The focus on restoration of harm and finding direction through teachings and spirituality in traditional culture is diametrically different from the punitive models of western culture.

• (1105)

Despite the legal requirement that the Gladue factors or aboriginal social history be considered by sentencing courts, CSC, and the Parole Board, indigenous people and especially indigenous women are imprisoned more at higher rates of security and for longer portions of their sentences than other Canadians.

CSC is required by section 18 of the corrections and conditional release regulations to classify prisoners according to minimum, medium, or maximum security according to three criteria, which are escape risk, risk to public safety, and the degree of supervision and control required within the penitentiary. This third factor is known as the institutional adjustment rating within CSC.

Of course, indigenous women tend to have high institutional adjustment rates, given that their imprisonment by Canada is an extension of the genocidal policies of residential schools. It would be next to impossible to have a low rating for institutional adjustment in a security-driven prison environment that perpetuates violence and does not achieve the foundation of trust and respect that is necessary for healing.

It is significant that all of the women who have been declared dangerous offenders in Canada are indigenous, and their designation is generally based on violent offences that have happened since they were imprisoned, not in the community. It is also significant that very few indigenous women achieve minimum security, which would allow them to access the only aboriginal healing lodge for women in Canada.

Trauma affects mental health and behaviour. Classifying prisoners to higher levels of security based on institutional adjustment problems results in prisoners who have suffered high rates of

personal and intergenerational trauma being denied the support that they need to heal. The test for security classification should be amended to ensure that prisoners who have experienced trauma or have high mental health needs have more access to resources that would facilitate healing, such as mental health services and a non-punitive, culturally appropriate environment. In our clients' experiences, aboriginal social history is included in CSC's risk assessments as lip service and appears to have no impact on security classification decisions other than as a factor that increases security risk.

Prisoners' Legal Services calls on government to engage with first nations and indigenous organizations so that they may achieve self-determination in the administration of criminal justice. The federal Government of Canada should ensure that first nations and indigenous organizations have the resources to provide wraparound community services so that indigenous women have the support to heal from trauma and avoid contact with the criminal justice system; to administer indigenous courts based on restorative justice to ensure that there are community alternatives to incarceration at sentencing; and to be able to provide healing lodges by and for indigenous people under section 81 of the Corrections and Conditional Release Act, regardless of security level, so that no indigenous woman should be required to set foot in a federal prison again.

There should be funding and support to ensure that there are community resources to allow indigenous prisoners to be released to indigenous communities on parole or statutory release under section 84 of the CCRA, and they should be resourced to ensure support is there for indigenous women and men after the end of their sentences.

Canada should never again participate in the separation of indigenous families and communities and in the violence that is inherent in its imprisonment of indigenous women and men in federal prisons.

Thank you.

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

We allowed you to go a little over time. It was supposed to be seven minutes, but you had such great information, we thought we'd just let it happen.

Is it Raji Mangat?

**Ms. Raji Mangat (Director of Litigation, West Coast Women's Legal Education and Action Fund):** That's right.

**The Chair:** You have seven minutes, but of course we have a little flexibility today.

**Ms. Raji Mangat:** I'm going to try very hard to stay within the seven minutes.

**The Chair:** If you go longer, it's okay.

**Ms. Raji Mangat:** Thanks.

Madam Chair, honourable members of the committee, thank you for inviting me to participate in this study. Following on Ms. Metcalfe's remarks, my focus today is on a few big-picture considerations that I hope will help frame your approach to the study.

Meaningful systems-level change for indigenous women affected by or engaged with the criminal justice system cannot be achieved through criminal justice or corrections interventions alone. We are well beyond a situation where some tweaks or some reforms at the margins will suffice to turn the tide of the staggering overrepresentation of indigenous women within these systems.

You may have already heard from the Correctional Service of Canada that they are making improvements to how they're documenting aboriginal social history in the offender management system, or about how they're looking to more effective hiring and retention practices for elders and indigenous correctional staff. To be sure, those are good things, and we encourage those efforts, but those types of efforts are not going to be enough. We have to broaden our perspective of the systems and actors involved in indigenous women's criminalization and incarceration.

CSC itself acknowledges that indigenous women are coming into its custody with distinct and different needs due to unique and complex pathways to the criminal justice system; that there are present, prior, and intergenerational experiences of abuse and trauma; and that indigenous women experience far greater economic and social insecurity than members of society at large. We've seen numerous studies, reports, and commissions that have mapped out why this is, why indigenous communities have been historically disadvantaged and remain disadvantaged today. However, I think now we're starting to talk about how we can meet those needs, not only while indigenous women are within the prison system but, more importantly, how we can meet those needs before they get there.

To answer that "how" question, I think we need to think about investing in safe and appropriate housing, stable employment, access to child care, mental health supports, access to justice in terms of legal supports, and community support services. It's going to require the people in this room, and your colleagues and counterparts in the House and the Senate, to work across ministries and across jurisdictions and, most importantly, to work with indigenous women themselves.

I echo Ms. Metcalfe's call that, if you're not planning to already, you try to go out to some of the women's prisons, particularly the Edmonton Institution for Women and the Regional Psychiatric Centre in Saskatoon, and speak with women while they're incarcerated, and those who have been recently released.

We need to think about how we can ensure stable, sustainable funding for community supports. We can only deal with the outcome or the reaction when individuals are in prison, but we need to be looking at what's happening, the pathways they're taking to get there, and what interventions we can do across the spectrum to address that at the outset.

The connection between indigenous women's imprisonment and child protection comes to mind immediately, and Ms. Metcalfe spoke about this as well. Are we adequately supporting indigenous women to parent? Are we adequately supporting indigenous kinship carers? We're not, frankly. We're not adequately supporting indigenous women and their families and communities.

In B.C., we see this all the time at West Coast LEAF. Child protection services are putting more resources into fostering children outside of those communities rather than within the relationships that exist in family units. I think that happens partly out of a misunderstanding of those kinship bonds, but I think it's also some racist and harmful views about what proper parenting looks like in our society. We can't ignore that reality.

We in this room are all too aware that removing indigenous children from their families and communities and putting them into institutional settings causes intergenerational harms. We've seen that already. We had the Truth and Reconciliation Commission. We have numerous studies and reports. We know that this is not going to end with that person alone; it's going to have future detrimental effects.

• (1110)

At the very least, I think we also have to do no harm to the indigenous women already engaged in our criminal justice and correctional systems. We're failing at this in ways that have devastating downstream effects not only for those indigenous women, but as I said earlier, for generations to come, for their children, for their families. How do we do no harm? It's easy to say, "Do no harm", but how do we do that?

Well, I think it really comes from a fundamental and radical shift in how we think about incarcerated indigenous women. We have to stop thinking about them as bundles of risk or as behaviours to manage. We have to think about them as human beings with this complex history that comes with them. They have multi-faceted, individualized needs. We can't try cookie-cutter pan-indigenous approaches to addressing those needs.

How do we understand that indigenous women and their communities are themselves agents of change, that they're the ones with the greatest stake in this outcome? This past summer my organization intervened at the B.C. Supreme Court in a charter challenge to administrative segregation in federal prisons. I don't know how much the committee may have heard about administrative segregation, but we can speak about that later.

Why I raise it now is that I think it's important for you to understand that, even as many of the aboriginal programs that CSC officials might have already described to you or that you might have heard about were in place, the annual segregation placements for indigenous women were still trending upward. It's not because there's a lack of understanding that indigenous women have different needs. It's not because CSC has a lack of caring or concern for their outcomes. I think it's that we have this fundamentally flawed risk-and-security-centric approach to the business of corrections. That impacts all prisoners, but it particularly has a harmful impact for indigenous women and women experiencing mental health concerns.

As in society, in prison, behavioural expectations are gendered and they're culturally situated. This idea of institutional adjustment that Ms. Metcalfe talked about is used as a reference for how someone will get along in the correctional environment. The focus is on how willing and able those prisoners are to adapt and to comply. But indigenous women who are coming into the system with, perhaps, a distrust of authority because of their prior experiences then come to be seen in that environment as unco-operative, unmanageable, risky, challenging. That then exacerbates this cycle, where they're rated at a higher security level and their access to the kinds of programs that they probably desperately need to break that cycle becomes compromised by their security status.

I think I'm probably towards the end of my time.

• (1115)

**The Chair:** Yes.

**Ms. Raji Mangat:** Maybe I'll just quickly say that I like to think that I look too young to be so cynical, but I don't expect that corrections is going to volunteer to change. Any positive change that we've seen that's happened behind prison walls has really come because people outside have noticed and we've cared.

My final recommendation would be for the committee to seriously think about what kind of oversight mechanism might be appropriate.

I have much more to say, but I'll stop there.

**The Chair:** Thank you so much for your dialogue.

We're going to our rounds of questions, and we're going to start off with Sean Fraser for seven minutes.

**Mr. Sean Fraser (Central Nova, Lib.):** Perfect. Thanks very much.

I'll start with Ms. Metcalfe, but before I do, I want to say that I appreciate the perspectives you both brought in talking about the holistic approach we need to take, and not just one or two pieces to the justice system. I will start, with a few more specific pieces in the justice system, with Ms. Metcalfe.

You confirmed testimony we'd heard from other witnesses about the disproportionate representation of indigenous women in maximum security facilities. One of the suggestions we heard—I forget which organization the gentleman was with, and you alluded to this as well—was that we consider how we can introduce the use of Gladue reports to the considerations around what is an appropriate level of security for an indigenous person, not necessarily just an indigenous woman. Can you walk us through the mechanics of how we could actually accomplish that at the federal level? Do we have a

role in helping to put that information before the decision-makers on the appropriate level of security?

**Ms. Jennifer Metcalfe:** Sure. I know, in our clients' experience, not very many of them have Gladue reports from when they were sentenced. At one time we were talking with Legal Services Society about getting Gladue reports for people who had already been sentenced, but it was so restricted in its funding for them that we thought it would probably be a better use of limited funding to have Gladue reports for people at sentencing that can carry through their sentences. There are a lot of people who have already been sentenced and also people who aren't getting them at sentencing. I think there should be a lot more legal aid funding for Gladue reports.

• (1120)

**Mr. Sean Fraser:** Can I jump in, just on that specific issue? We heard the same witness I mentioned before suggest that there be some kind of a federal cost share specifically for Gladue reports. He mentioned that his organization was predominantly funded by legal aid, which the federal government does contribute to and is bumped up somewhat. I'm sure you would say more would be very, very helpful.

Is there a way we can target this? Shouldn't we be targeting legal aid funding specifically to Gladue reports for indigenous offenders or is that just an equally pressing need of the legal aid system across the board?

**Ms. Jennifer Metcalfe:** Yes, I think there's a lot of need for increased funding to legal aid, especially for prisoners. Our organization, as I mentioned, is the only legal aid clinic for prisoners in Canada. There are a couple of student clinics, but we're the only full legal aid clinic for prisoners in Canada. We're in a unique position to be able to take such a high volume of calls and speak to so many prisoners every day, so we can identify the systemic issues and help to focus on those and address those systemically.

**Mr. Sean Fraser:** I have another theme I want to explore, but I'm just conscious of the limited time we have.

You discussed the possibility of alternatives to incarceration, specifically, restorative justice or community sentencing. First of all, is there evidence that demonstrates this leads to positive social outcomes like lower levels of recidivism, lower rates of people serving their complete sentence, or whatever the positive outcomes might be? If the answer is yes—I presume it is—how can we at the federal level encourage these alternatives to traditional incarceration for indigenous women offenders?

**Ms. Jennifer Metcalfe:** I believe the answer is yes. My role at Prisoners' Legal Services is helping people once they've been incarcerated, so I don't have too much experience at the court level. I think the role the federal government can play, in general, is in working with first nations for self-determination and self-governance on issues around justice and just making sure that the resources are there at every level, to avoid people getting into the justice system at the outset and to provide support. Not only during the sentence, but after we're in expiry, a lot of people are sort of dumped into the community, back where they started with no resources, and it's harder for them to get jobs. So, we need more wraparound services.

**Mr. Sean Fraser:** That's a great segue, if I can just transfer my questions to Ms. Mangat.

You mentioned the wraparound services. In particular, there's one that jumped out at me as community legal support services. I have some experience with organizations in the non-profit sector that did sort of legal health checkups. At certain parts of your life they offer free advice if you're buying a home, if you're getting married or divorced, or whatever it might be.

Are there programs out there today that deal with the issue of access to justice for indigenous women, the kinds of legal support that you're talking about? What do they look like, and how can the federal government support their expansion?

**Ms. Raji Mangat:** There aren't many that are specifically directed at indigenous women. I think that indigenous women's organizations are always struggling. It's sort of a question of whether you put out the fire or fireproof your house. I think we're often putting out the fires for the organizations that are working at this non-profit community level.

I think that the legal health checkups—I've heard of that in Ontario; I'm not familiar with anything like that in British Columbia. I do know there are so many ways in which people's interaction with the legal system happens well before they maybe have offended or are going to be sentenced. I think the supports we can put in place that are specific to indigenous people and their kind of cultural reality at the outset are good. I think the federal government is really well positioned to do this, because you have jurisdiction over indigenous peoples, generally, and over the criminal law system. I know I'm talking about things like housing and employment that fall within provincial jurisdiction, but I think they're really issues of shared jurisdiction. I think the federal government can support these. Maybe you need to earmark funds through social transfer. Maybe there needs to be some way in which we can have a uniform experience across the country. It really matters where you're indigenous, even within Ontario, what part of Ontario you're in.

• (1125)

**Mr. Sean Fraser:** We have 30 seconds to go.

You've described some of the stereotypes we have that are perpetuated in the prison system, where we essentially make the social problems worse when we don't let people heal in their communities. If we release people prematurely without having those community supports, are we setting those people up for failure?

**Ms. Raji Mangat:** I think we're setting people up for failure right now. Are we setting people up for more failure? It's hard to say, but

we're putting people out at warrant expiry who've had no transition to community.

I think the indigenous communities obviously are wanting people back in their community, but many people who are indigenous do not live on reserve. They go back to urban centres. What supports are we putting in place there? We can't just assume a uniform experience for indigenous people.

**Mr. Sean Fraser:** Thank you very much. That's my time.

**The Chair:** We're now going to turn to Martin Shields for his seven minutes.

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

Witnesses, I very much appreciate your being here today, and also your positions that you're explaining to us. What we were just finishing up on with my colleague is where I want to go, in a sense.

I'll start with you, Ms. Metcalfe. I know that you're working on the west coast, but in terms of the position of approximately 700 different indigenous groups in our country, are you suggesting a uniform approach or is there differentiation that we would find in the processes that we might be looking at?

**Ms. Jennifer Metcalfe:** I think that's a really good point. It's really important that indigenous services for prisoners be tailored to something that is relevant to their particular first nation. That's why the centralized system that was criticized in terms of creating choices, the P4W, still exists: because there are so few centres for women.

What I'm envisioning would be self-determination negotiations with individual first nations to look at providing better services in those communities, mostly to avoid people getting involved in the criminal justice system, but also to help them with their healing and to deal with those issues.

**Mr. Martin Shields:** Yes, we would prefer to have no prison system in the country, which would be the best thing to have for anybody, but when you talked about a macro system, in a sense, there was a lot of duality that I would derive from what you were talking about. As I think just came up, we have indigenous people on communities or reservations, and then we have them in urban centres, which is not a community, in a sense. If I'm taking you right, you're talking about a duality of justice and legal systems. How would that be effective in indigenous and urban settings when they're very different?

**Ms. Jennifer Metcalfe:** Well, I think it's important to engage both the bands and the urban indigenous organizations. There are indigenous people who live in urban centres and on reserves all over Canada, so we need to be working with all of those bands and organizations in talking about how to transfer the responsibility for corrections to first nations.

**Mr. Martin Shields:** That's my point, in a sense, when you say "return to their community". I've been on a street in a major urban centre when there were indigenous people released from a prison setting onto a main street in that large urban centre. You say that's a return to their community, but that's not what they're returning to. That phrase has been used many times—the wraparound service in their community—and it's been referred to basically as the indigenous home community, but that's not where a lot of them are.

**Ms. Jennifer Metcalfe:** No, and I think urban centres are also indigenous communities, and we need to consider them to be communities as well.

**Mr. Martin Shields:** In listening to that, I think we need to make sure it's clear that you're not talking about home reserve indigenous, but about where the community is. I think that needs to be very clear that if we're moving forward, we need to understand where that community reference we're talking about is, and it's not just a home community of historical reservations.

**Ms. Jennifer Metcalfe:** That's right. I think the friendship centres in cities would play a big part in that.

**Mr. Martin Shields:** Thank you.

Ms. Mangat, thank you for your explanation. I liked that one piece when you talked about grassroots and the type of ability that may have to change this. Would you like to expand a bit on that grassroots effect that could play a role in what you're talking about?

• (1130)

**Ms. Raji Mangat:** Sure, and I think that maybe dovetails nicely with what you were asking Ms. Metcalfe about, and I agree with her. I think, when we think of indigenous communities, we sometimes have this idea of this sort of idyllic community that exists in this pristine way that hasn't changed since settlers first came here. That's not the reality for any of the indigenous people who I know or any of the indigenous communities my organization works with. But I think that there are organizations working with bands and with individuals in urban settings that are really looking at ways that some people who want to can reconnect with some of their cultural traditional practices that make sense for them now in this modern age.

I've heard from many indigenous prisoners that their first idea of culture, of their culture being provided to them, was through CSC programming that was, perhaps, not really a great way. Talk about neo-colonialism to say to someone that we're now giving them their culture in this institutional setting.

I do think that grassroots community organizations have a huge role to play, because those are the organizations that have seen some of these people through their best and worst times. They're the organizations that I think are committed to building that trust. Ms. Metcalfe spoke about this, and this is my experience with women in prison as well, that you can say that people are coming to see them every day, someone comes down, walks down the range, and asks them how they're doing, but that's not meaningful social contact. I don't think any one of us thinks that's meaningful social contact, so where is that meaningful social contact happening? For many indigenous women, it's happening in those grassroots community movements and organizations. I think that's where we need to be focused.

**Mr. Martin Shields:** I have one last question, and I'm going to Ms. Metcalfe first.

Your first priority, if you had a choice, what would it be?

**Ms. Jennifer Metcalfe:** It would be decarcerating indigenous women.

**Mr. Martin Shields:** Okay.

**Ms. Raji Mangat:** Yes, for me as well, and solitary confinement.

**Mr. Martin Shields:** Okay. You are very specific on that one.

**Ms. Raji Mangat:** I am on that one. I mean, decarceration absolutely, but if we're going to look at something that's sort of before the courts right now, then I would say solitary confinement for everyone, but certainly for indigenous women and certainly for men and women with mental health concerns.

**Mr. Martin Shields:** Okay. Thank you.

Thank you, Madam Chair.

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

We're now moving to Sheila Malcolmson for seven minutes.

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

Thank you to both witnesses. You've made it really specific and really easy for us. Thank you both for your work.

I'm going to try to fit a lot into a short period of time. My first question will need a yes or no answer, I hope. We heard a couple of weeks ago from Anne Kelly, the senior deputy commissioner of Correctional Service of Canada. 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."

Is it your experience that that is true?

**Ms. Jennifer Metcalfe:** No, I would say no. I think that was a vision of "Creating Choices". I think some of those ideas were there in the beginning, and there's been a real decline in the women-centric approach from the beginning of FVI and the other women's prisons.

I think during the Harper era, which had the tough-on-crime agenda, it really affected the way they run the women's prisons, and I don't think that's true anymore.

**Ms. Sheila Malcolmson:** Thanks.

**Ms. Raji Mangat:** My answer is no, as well. I think, as Jennifer said, from "Creating Choices", we've seen this radical shift away from the sorts of things that witness was saying they're doing. They may think that's what they're doing, but that's not what's happening. There's been this radical shift from the sort of approach that was first articulated in "Creating Choices" back in 1990 to this sort of risk-centric, security-centric approach, and that's making many of the women's facilities look not very different from the men's facilities. That was sort of what "Creating Choices" was supposed to be doing, saying we're going to do something different.

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

West Coast LEAF, can you table this report with the committee?

**Ms. Raji Mangat:** Oh, sure.

**Ms. Sheila Malcolmson:** This is your report card on CEDAW, the UN Committee to End Discrimination Against Women and their recommendations a year ago to the federal government. You've applied it to B. C. specifically, but I think it has relevance, so if we were able to get it into our list of evidence, that would be helpful. We could draw on that.

• (1135)

**Ms. Raji Mangat:** Yes, absolutely. I am very pleased to table that 2017 CEDAW report card. We put that out every year. This one was just released last week. It's an assessment of how British Columbia is doing in terms of Canada's obligations under the Convention on the Elimination of All Forms of Discrimination Against Women.

The grades are never great—spoiler alert—but I think that, although it's B.C. specific, a lot of these issues cut across the country. Our assessment is B.C. specific because that's our mandate, but I hope there is much in there that will be of service to the committee in its study.

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

To both the witnesses, the UN CEDAW report from a year ago indicated the committee's concern in relation to Canada specifically that financial support for civil legal aid programs has considerably diminished in the last 20 years, and has become increasingly restricted, affecting particularly women who are the primary users of civil legal aid.

Have you seen any progress, especially since this concern was registered a year ago? Have you seen commitments of increases in funding on the ground for the women you serve?

**Ms. Raji Mangat:** Do you want to go first, Jennifer?

**Ms. Jennifer Metcalfe:** I'm not aware of any increases.

**Ms. Raji Mangat:** No, and West Coast LEAF, in partnership with another legal organization called the B.C. Public Interest Advocacy Centre, brought a lawsuit challenging the way B.C. has underfunded family law legal aid. It's a case called *Single Mothers' Alliance v. British Columbia*, and it's really looking at... Even with the limited services that are provided to women and men—everyone in British Columbia under the family law legal aid regime—they're failing. The situation is abysmal. With the cuts to legal aid over the past decades in B.C., we're seeing the impact on the ground in terms of who is constantly being left out of the advantages and benefits that are intended to be there for everyone. We're seeing that it's women, particularly indigenous women, and it's around family law and child protection which, again, connects right back into the incarceration and criminalization that this committee is looking at.

**Ms. Sheila Malcolmson:** I note that the UN Committee on the Elimination of All Forms of Discrimination against Women, again in its report a year ago, on Canada specifically, recommended that Canada redesign its classification system for women in the federal prison system to ensure their access to work and community programs as well as to aboriginal healing lodges.

Have you seen any changes in this regard in the year since the report was released?

**Ms. Jennifer Metcalfe:** I haven't, and we're waiting for the Supreme Court of Canada and the Ewert decision that has to do with the security risk tools used for indigenous men. Hopefully, we will see some changes for indigenous women too after that decision comes out.

**Ms. Sheila Malcolmson:** Are there any changes you've observed?

**Ms. Raji Mangat:** No. I understand that in response to the Auditor General's report, CSC has adopted or accepted the recommendations made in that report. Maybe there will be something on the horizon, but what we see constantly is a huge disconnect between law and policy and between policy and practice when it comes to CSC. The programs that are available for women in terms of employment and education are really gendered and they really don't seem to speak to the kinds of skills that women are going to need in the economy when they get out of prison—and they will get out of prison.

Programs around sewing, cooking—and I was surprised to learn—flower arranging... We need to look at what skills we are giving people when they're in prison. Again, it goes back to the do no harm. We're putting people in a worse position than if they hadn't been in prison, by diminishing their skills, by not providing them with the rehabilitation and the counselling services they need to come out and to not reoffend.

Our whole purpose of wanting to make our society more safe and secure is being undermined by us in many ways.

**Ms. Sheila Malcolmson:** Is there anything you want to say about jailed mothers with babies and the importance of having them together?

**Ms. Raji Mangat:** Oh, yes. There was a case that West Coast LEAF intervened in called *Inglis* a few years ago, which was about the cancellation of a mother and baby program at a provincial jail. If you read that decision, you find it's full of all of the evidence that shows how it's really so much for the benefit of both the child and the mom to be able to keep them together in prison to the extent possible. This happens across the world, so we're not doing anything radical here.

• (1140)

**The Chair:** Thank you so much. That was great testimony.

Marc Serré, you're up for seven minutes.

[*Translation*]

**Mr. Marc Serré (Nickel Belt, Lib.):** Thank you, Madam Chair.

I thank our two witnesses for their testimony and the work they are doing in this area. It is really important.

As you know, we have a lot of work to do to improve the situation.

Ms. Metcalfe, you talked about the aspects of classification, security and initial assessment concerning minimum and maximum sentences. We heard from witnesses about the process that was developed about 25 years ago.

Do you have any specific recommendations for the committee to help change the way aboriginal women are classified in terms of security?

[English]

**Ms. Jennifer Metcalfe:** I think Ms. Mangat spoke about the approach being security-driven and how wrong-headed that is. I would agree with that. We really need to look at what happened to the person to bring them to this point in their life and what we can do to help them heal. That's not at all what we're doing.

As I mentioned in my talk, I think one of the biggest issues in the security classification legislation is the use of institutional adjustment to give people a higher security rating. For most of our clients with high institutional adjustment ratings, it's directly related to their mental health issues and experiences of trauma, for men and women. We really need to turn that on its head. I think there needs to be an assessment of people's mental health difficulties and needs, including trauma. We need to address those in a more therapeutic environment or outside of the prison system.

**Mr. Marc Serré:** You mentioned that Gladue reports are used against indigenous women. Can you explain to us some of the factors that are being utilized? We heard from other witnesses on the Métis side that they weren't encouraged to complete the Gladue reports—a lack of funding—but you specifically said “used against”. Can you explain a bit more about that, please?

**Ms. Jennifer Metcalfe:** Until recently, just lip service has been paid to the Gladue factors in the paperwork that CSC generates. There might be a mention that family members went to residential school or that a person was raised through the foster care system, but then there's no connection to the decision that affects their liberty. Oftentimes those factors, issues with drug or alcohol addiction, which clearly stem from that multi-generational trauma, are used as negatives in the risk assessment. CSC is so oriented towards risk assessment, and all of their tools and policies are oriented towards risk assessment, that including Gladue factors just doesn't jive.

They recently revised the policy on incorporating Gladue factors. I'm not sure if those CDs have come out yet, but we have commented on them. Any time there's any amount of discretion given to CSC decision-makers, in our clients' experience it's used to the highest degree of control and deprivation of liberty.

**Mr. Marc Serré:** Thank you.

Ms. Mangat, you talked about administrative segregation. Are you aware that our Minister of Public Safety has tabled legislation, which has now been forwarded to our public safety committee, to look at limiting the use of solitary and administrative segregation? Do you have any comments on that?

**Ms. Raji Mangat:** Yes, I'm happy to see that's happening. Again, I said that sort of cynical thing, that CSC doesn't often volunteer to change. I think this is another example of media attention to particularly egregious situations like those of Ashley Smith, Eddie Snowshoe, and others really shedding a light on what's happening.

Administrative segregation has been happening for a very long time. We're now talking about it, and I'm happy to see some legislative changes being proposed, and not only changes to the commissioner's directives, because as Ms. Metcalfe said, those are very discretionary instruments. They're not in the legislation, so that makes it very easy for them to change. It makes it very easy...maybe not very easy, but easier for them not to be applied in the sort of spirit that we think they should be applied.

In terms of legislative change around administrative segregation, I think we should also be very cognizant that CSC takes very technical positions. It's administrative segregation; that has a particular term of art for them. There are other ways in which people are confined, secluded, or isolated in their confinement. By focusing on administrative segregation, sometimes what happens is that it just changes what they call something. It may be that it will be taking place under a different guise, but it's not administrative segregation anymore.

I'll be very interested to follow the study of that bill, because I think there are some really important things in there, and I'm cautiously optimistic, as I always am.

● (1145)

**Mr. Marc Serré:** Thank you.

For the last question, you have 30 seconds each.

You indicated about restoration, about programming. I want you to talk a bit about that versus punitive minimal sentences. Can you comment on some of the disadvantages that it has had for indigenous women?

I'll ask Ms. Mangat first.

**Ms. Raji Mangat:** You want me to comment on the disadvantages of mandatory minimum sentences.

Yes, I think that mandatory minimum sentences strip away what the sentencing judge is supposed to do. They undermine the Criminal Code. The Criminal Code asks our sentencing judges to set a fit and proportionate sentence, and we're supposed to be looking at the Gladue factors when we do that. When you set a mandatory minimum, you take away the judge's ability to do his or her job. Unless someone is able to mount a successful constitutional challenge to that mandatory minimum sentence under our charter, the judge has to apply it in that way.

You have people who maybe would be better managed under a conditional sentence. There are ways in which you could have them serve some time during the week, but be able to spend time with their families on the weekend. Creative alternatives to sentencing do not exist in a scheme where mandatory minimums are the norm. I think when we take that discretion away from judges, we're really undermining what our Criminal Code was intending to do with those sentencing principles.

**The Chair:** Thank you very much. Unfortunately, we don't have time for the rest of the answer.

We will now move back to Martin Shields as we start our second round of five minutes each.

**Mr. Martin Shields:** Thank you, Madam Chair.

I appreciate the conversation and the information you're giving us. One of my questions goes to what you were finishing up with, when we talk about staffing.

I'm very aware of a sense that the justice system and the police services have attempted to become more ethnically diverse, and the move to make our judges and prosecutors.... Has that made any inroads that you know of in the staffing within the prison system?

**Ms. Raji Mangat:** Ms. Metcalfe might be better positioned to answer this because she spends more time in prisons.

I know they've made commitments to increasing the numbers of indigenous staff, elders, and those sorts of things. I think that's good. That certainly is better than not having those initiatives in place.

I think that falls more within tweaking the system and less within the sorts of things Ms. Metcalfe was speaking about in terms of working with this dual system of corrections that's steeped in indigenous cultural traditions, communities, and healing.

Maybe I'll let her speak to that more directly, because it's more in her bailiwick.

**Mr. Martin Shields:** Absolutely.

Ms. Metcalfe, you were the one who mentioned it, so ...

**Ms. Jennifer Metcalfe:** Yes. I agree with Raji that we really need to be taking indigenous women, and I think also men, out of the correctional system. It's a system that's broken, and we need to take them out.

I think one of the problems.... We've noticed a lot of... We're talking about getting rid of solitary confinement, but there's also a lot of increase in security at all of the levels. I think having men working in the front lines in the women's prisons has contributed to that. It sort of takes away from the trauma-informed approach that was the foundation of "Creating Choices" and which our provincial women's prison uses....

• (1150)

**Mr. Martin Shields:** As we all understand, governments are like large ocean liners. To get them to change it takes until an hour later in their course and many miles down the road. You mentioned silos. I think this is one of the biggest challenges. When you want to turn any department, you're driving an ocean liner and they're headed in one direction. Do you believe this is important?

**Ms. Raji Mangat:** I do. I think if we look at some of the challenges that the National Inquiry into Missing and Murdered Indigenous Women and Girls has experienced around that, they've managed to come up with some sort of process that might cut across those jurisdictional, ministerial, or departmental mandates. I appreciate that challenge. I'm not completely blind to it at all. I think it's going to be one of the hardest things. I think the will is there, but we're so set in some of the ways we work. How about we look at housing as a part of this pathway? That seems really radical and crazy but it is so much a part of that because if people don't have safe places to go they're not going to stay out of prison. Maybe it's going to require some very brave and creative people. I think they're out there, and I think the will is there.

**Mr. Martin Shields:** One of the things I'm familiar with—and I'm stepping into territory where some people might think it's an invalid

analogy—in the Alberta government, when Fort McMurray really expanded, and we had issues around housing, roads, and whatever else, they formed a committee of senior deputies from 16 departments that crossed those silos because it covered so many different aspects. They met on a weekly basis to deal with all the issues surrounding that. That's an example of a cross-silo approach. Senior government officials had to work together on a weekly basis to follow the issues.

**Ms. Raji Mangat:** I'm from Grande Prairie so I'm familiar with some of this. Absolutely, I think there are ways to do it. As I said, I think the will is there but sometimes we just have difficulty thinking outside the traditional ways in which we work or the boxes we've put our work into. I think that's a perfect example of how you can have a non-silo approach or have cross-ministerial or cross-departmental individuals involved at a high level who can then go back to their staff or back to their deputies and say this is how this is going to work within this other system. We need to be cognizant of that and not put blinders on and do very narrowly what we think our mandate ought to be.

**The Chair:** That's excellent.

Thank you very much.

We're now going to move on to our final questioner.

We have Eva for five minutes.

[*Translation*]

**Mrs. Eva Nassif (Vimy, Lib.):** Thank you, Madam Chair.

Thank you both for making your presentation.

My first question is for Ms. Metcalfe.

We all know that the system has many shortcomings, but I would like to know what type of services you think are the most necessary to helping aboriginal women in this process.

What should we implement, strengthen or develop within the justice system to do that?

[*English*]

**Ms. Jennifer Metcalfe:** As we both said, the system really is broken. "Creating Choices" was a really good attempt to fix the system, and it didn't happen. We really need to look at self-determination, working with first nation bands, associations, and organizations in urban areas as well, to transfer those services so they're provided by and for indigenous people for there to be the level of trust that's needed among prisoners to look at their lives and to genuinely heal.

[*Translation*]

**Mrs. Eva Nassif:** The DisAbled Women's Network of Canada shared some alarming statistics on the impact of traumatic brain injuries suffered by aboriginal women in prison.

Can you establish a correlation between incarceration, mental health issues, addiction, history of traumatic injury and poverty?

• (1155)

[English]

**Ms. Jennifer Metcalfe:** I think so.

A year ago our organization put out a report on solitary confinement. I think the most striking part of the research that we looked into in producing that report was the levels of trauma are just so high. It's pretty commonly known that the levels of trauma for women, and especially indigenous women, are at the 90% or higher level especially when you consider multi-generational trauma. What struck me in this report is that the levels of trauma are really high for men too. If we want families to be able to heal we need to heal men as well and look at all corrections through a trauma-informed lens.

[Translation]

**Mrs. Eva Nassif:** Is there information on the approximate percentage of aboriginal women offenders in the correctional system who are repeat offenders?

If so, is that percentage higher than it is for other population segments?

Your presentations indicate that it is higher, but can it be compared to the percentage in other demographics?

[English]

**Ms. Jennifer Metcalfe:** Sorry, I think you're going to have to ask Ivan Zinger that question. He's the one with all the statistics.

[Translation]

**Mrs. Eva Nassif:** Ms. Mangat, can you answer that question?

[English]

**Ms. Raji Mangat:** I'm not entirely sure about that. During that solitary confinement trial, I was surprised to learn that some of the statistics that corrections are keeping aren't the sorts of things I thought. I thought they would have a sense of the prevalence of mental health issues in people coming in. That's something they've more recently been looking at. They weren't able to provide that type of information for women coming into the prison, at least not at the time of that trial.

I think that's really problematic, because how do we assess whether their interventions are working if we don't have a sense of the experience of people with mental health conditions coming in? How do we tell if they're worsening, getting better, or staying the same if we don't understand and we're not taking a holistic look at the person when they're coming into the prison? Mental health is one area in which I think they haven't been doing such a great job at collecting that data. I may be wrong. That data may be collected now, but it certainly didn't seem to be available at the time of the trial this past summer.

I don't know about the rates of recidivism, and whether they're able to aggregate the data across gender, indigeneity, and mental health. Based on the experience with the trial, I would be surprised if it were coming across in that way. It may be available, but I don't know if they're tracking it like that, to be honest. Ivan Zinger might know.

[Translation]

**Mrs. Eva Nassif:** Following their release, do aboriginal women offenders usually return to reserves or to the general population?

[English]

**Ms. Raji Mangat:** I'm not sure. I think just as we are all different people with different aspirations and needs, the indigenous members of society who come out of prison are making choices about where they're going to live and where the best supports may be. For some of them, that may be back on a reserve with their community. For others, that may be in a more urban setting. I'm afraid I don't really have the answer in terms of what numbers are going where.

[Translation]

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

• (1200)

[English]

**The Chair:** I would really like to thank our panellists for coming today. Jennifer Metcalfe from the West Coast Prison Justice Society and Rajwant Mangat from the West Coast Women's Legal Education and Action Fund, thank you very much for providing us with your testimony today.

We will take a two-minute break so we can change the panel.

• (1155)

(Pause)

• (1200)

**The Chair:** If everybody would take their seat, we're going to start in just a few seconds. Right now we are in a bit of a muddle, but we're going to figure it all out. We have Daniel en route looking for people. You never know—he may show up with some of our people.

Right now we have, from the Siksika Nation, by video conference from Calgary, Stephanie Weasel Child, who is the senior manager of claims and research. We will be expecting some others to join us.

Lois Frank has just joined us. She is an instructor of native American studies and criminal justice at the University of Lethbridge.

We are waiting to find the Indigenous Bar Association. Perhaps with the weather and a variety of different things, we have some complications today.

We're going to start off with Stephanie from the Siksika Nation for seven minutes.

**Ms. Stephanie Weasel Child (Senior Manager, Claims and Research, Siksika First Nation):** Good morning. *Oki.*

My name is Stephanie Weasel Child from Siksika Nation. I come to you from Calgary, which is on the traditional Blackfoot territory. It's an honour to be asked to speak before the committee.

I'll give you a bit of background on Siksika Nation. It's the second-largest land-based Indian reservation in Canada. We have a population of just under 8,000; 45% is on reserve and 55% is off. Our fastest growing population is 25 and under.

When I was looking at the topic that was chosen for today, I was thinking of recommendations like having more elders involvement, more female corrections officers, more female first nation judges, access to language and culture, traditional spiritual components within the federal corrections system, for example smudging, learning about your own language and your own culture. But the one thing that kept popping into my head was we should be focusing on ways to keep them out in the first place. When talking to the lawyer in Siksika Nation, she told me that the major cause of having first nations people get in trouble with the law is poverty and addictions. She asks her clients if they would have done this, if they would have committed the crime if they were sober, and nine times out of 10, the answer is no.

Siksika Nation is in a unique position. We have our own courthouse with regularly scheduled criminal and family court. We have our own legal aid office right on reserve. We have a victims' services and a crisis unit. We have probation services. We have two court workers who are Siksika Nation members. One is for criminal and one is for family court. We have a mediation program called Aiskapimohkiiks, which is used mainly for domestic violence and family court. Ninety per cent of the employees with Siksika justice are first nation.

My thinking is we need more programs on reserve to battle the problems of addictions and poverty. Siksika Nation has a Matrix program, which is basically a day treatment program. The limit for that is 20 people per session. I think it's a 12-week program. It's an outpatient treatment program. The only other alternative is to go to a residential treatment program in Calgary or Edmonton, and the wait-list is very long for that.

Another answer would be to look at traditional case management, bringing in elders, following the Aiskapimohkiiks program, which is fully functional in Siksika Nation. It would be bringing in elders, bringing in traditional leaders, traditional knowledge holders, society members, to help with the process with the members who are falling onto the wrong side of the law.

That would be true reconciliation, in my opinion. There is another component where you can educate the guards, the lawyers, the crown prosecutors, the judges, as to why first nations people are where they are. Educate them about the trauma of the residential schools, which caused all the broken families and caused a lot of the problems that first nations are facing today.

We could implement having more first nations judges, female judges. I know of a first nation member who applied. She went through the process and was put on a waiting list, and was told it would be three years before she would hear back for the final decision on whether she would become a judge or not. Three years came and went, so she contacted them again and they told her that the whole process had changed, that she had to go through the application process all over again.

●(1205)

She is a first nations female lawyer who had been working in Siksika Nation for, I would say, about 20 years. She goes out of her way, over and above to help her clients. That's the type of person the provincial government should be looking at to appoint as a judge to work full time in Siksika, because she has made a difference in her work, first as legal aid, as crown prosecutor, as defence, as duty counsel.

There are solutions. Improving their stay while they're in the system is an admirable attempt, but the focus should be on keeping first nations people out in the first place.

Thank you.

●(1210)

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

Lois Frank, thank you for joining us. You have seven minutes.

**Ms. Lois Frank (Instructor, Native American Studies, Criminal Justice, University of Lethbridge, As an Individual):** Thank you. My name is Lois Frank. I'm from the Blood Tribe, in southern Alberta.

I struggled with this presentation because I was trying to condense everything into seven minutes. That's difficult when you're a lecturer and instructor used to doing four-hour classes. I have a presentation that I've prepared for you, and you'll have copies of it, but I just want to speak from my heart because you've heard a lot of the evidence, the testimony of people who are in the justice system. I just want to share a few things with you.

We have a lot of statistics. We have the data on first nations women in the justice system. We know that women were very influential in traditional societies. We know they had an important role to play. They were the mothers and nurturers. They controlled the economic wealth of first nations sometimes. They had a lot of say in the communities.

I'm here because I teach criminal justice. I teach at the university. I also am involved in Gladue writing. I've been doing that for a number of years for the province. I've come to see the experiences of the people I represent as being very important. I could flood you with statistics and studies and inquiries, but I don't want to do that at this time. As a Gladue writer, under the Supreme Court's dictates, to look at subsection 718.2(e) of the Criminal Code, to look at the circumstances of aboriginal people is really important. Because I live on the Blood reserve, I have grandchildren, and I have students and Gladue clients, I feel as though I'd like to share my personal experiences in the work I do.

I have gained a lot of insight into the lives of aboriginal offenders, including substance abuse, violence, childhood trauma, homelessness, and physical, emotional, and sexual abuse. I have heard many stories and I'm very concerned about the direction we're going in, as far as the criminal justice system is concerned.

As I mentioned, women were very important. They had important roles, but after colonization through the Indian Act, women were non-persons. I think we've been feeling the ripple effects of that. We lived in a spontaneous world, a customary spontaneous world, whereas now it's very cold. We're under the dictates of government, and people who find themselves in the criminal justice system find it to be a very cold, structured world where they don't have much of a say.

A lot of our communities are patriarchal now because of the Indian Act. Women had almost no role and were viewed by the European lens as being inferior, people who were.... We had different roles. We were not dainty European women who were unaccustomed to hard work. Women were very central. They were independent, and they had much power in the community. We see that diminished now. I think that's why we see a lot of the problems with first nations women. They are the pillars. They're the roots of the community. When you take that away, we're seeing the problems, like the murdered and missing indigenous women. We don't need another study, another inquiry. We know there are problems.

● (1215)

I think it's important that we, as people who are attempting to reform some of the systems we have in place, like the courts, police, corrections.... Everyone involved in the criminal justice system, as Stephanie mentioned, needs training, but I think it's more important.... I'm here to speak about the women, the people I represent, the students, the people in the community. I am not here to give you more and more information about rehashing all these studies. I'm here to represent people I come into contact with on a daily basis. I get to hear their stories, and I'm here to advocate for them.

Most importantly, women are the strength, the backbone of the community. That has been totally diminished, but there are a lot of positive things that can happen. The charter protects individuals, protects people. I think the criminal justice system can adapt. We can adapt to the spontaneity of our cultures.

Last, I would just like to say that, as a Gladue writer, I think this is one way we can do something for aboriginal women in the system. We need to afford them the training. We need to use the same criteria we use for judges to look for aboriginal court Gladue writers, because it's very significant to this whole process.

Thank you.

**The Chair:** Excellent. Thank you so much for your presentations today.

We're now going to start with our first round of questioning, at seven minutes. We're going to start with Pam Damoff.

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

Thank you to both our witnesses for being here.

Ms. Frank, it's nice to see you again. I sit on the public safety committee. You recently testified there, and you mentioned that, under the Criminal Code, the sentence has to meet the crime, and right now that's not happening. I wonder if you could speak to that a little. You attributed that to plea bargains being made when indigenous offenders are going to trial. I wonder if you could comment on that, as well as the impact that the mandatory minimums have had on the increase in indigenous women in prisons.

**Ms. Lois Frank:** I don't think it's specific to aboriginal men or women. That's gender-defined. If we were to look at what is happening to first nations people when they go before the courts, when police charge them, the process that's used.... A lot of times there are no adjudicated facts to base sentencing on. The dictates of the Criminal Code say that it has to match. The gravity has to be the same, and we don't find that with aboriginal offenders. They're just processed, and sometimes they don't know their rights, or they have legal representation and people will plead them out, so they don't really get a chance to tell their stories.

Pre-sentence reports are one thing—they talk about their criminal record and all that—but Gladue reports look at the circumstances, which includes everything from their childhood to their substance abuse problems, things like that. They don't get to speak, and many of them don't want to speak; they just want to get this over with. They're being sentenced to prison more and more, or they're in remand for various reasons. There needs to be more of a structure in place.

I think Gladue writing is really important. I spend a lot of time with these people. I've been called to be before a judge, to speak on behalf of some of the people there. Aboriginal people are.... There's a legal industry where people are not really being represented.

● (1220)

**Ms. Pam Damoff:** This question is for both of you.

From 2007 to 2016, over those 10 years, we've seen federal inmate population grow only by 5%, but the indigenous inmate population grow by 39%, and women by 60%. I have a couple of questions related to that. One question I wonder if you could comment on is this: Are we seeing racial profiling of indigenous people, which is leading them to end up in the court system more often? I understand that a report was done here in Ottawa that dealt with racial profiling. Can you comment on whether that's a factor in more people getting sent into the criminal justice system to begin with?

Ms. Weasel Child, do you want to start?

**Ms. Stephanie Weasel Child:** With racial profiling for first nation people, I think it would occur more in the larger cities like Regina, Winnipeg, and Calgary, to some extent, but on reserve, the police deal only with the Siksika Nation members. With regard to the crime on reserve, it's our own people calling the police, so obviously it's going to be a first nation offender.

With regard to Calgary and the larger cities, I've heard of stories where people have been followed or, when there's a crime, if there's a first nation person present, that person will automatically become the suspect. There are some instances...and a lot of it is geared towards our youth.

That's my answer.

**Ms. Pam Damoff:** Okay, thank you.

**Ms. Lois Frank:** I think there is a lot of profiling, and there's carding in the cities, but I think it goes back to the elephant in the room, which is policing. Many people skirt around that, but policing has been an issue for first nations people.

That's why the missing and murdered women inquiry doesn't... They deal with things like policing. I think it goes back to stereotyping of first nations, especially first nations women. That's why the inquiry is so important, because first nations women, when they were reported as missing, it was because maybe they were in the drug trade, the sex trade, things like that.

So aside from the profiling, it goes back to the basis of this, which is stereotyping.

**Ms. Pam Damoff:** The issue of indigenous staff already came up, and I suspect one of the issues is getting more indigenous people to work in corrections and policing. I've heard that the way recruitment is done, it's expected that indigenous people will come to corrections or come to policing, as opposed to doing outreach within the communities.

Have you seen outreach in the communities? Do you think that would be a worthwhile endeavour, to go into the communities and try to provide supports for those who want to go in?

I see I only have 30 seconds. I'm sorry, but your response is going to have to be brief.

**Ms. Lois Frank:** That was a long question.

**Ms. Pam Damoff:** I know, I know. I can't help my time.

**Ms. Lois Frank:** On outreach, I think one of the important things is to provide training and that.

I think in the early days, they'd have judges or police spend a day in jail, or in court or whatever. Being on that end of it, I think is the best education. Rather than expecting some response, get in there and find out. Talk to the people in the jails, talk to the women. They're the ones who can give you the answers.

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

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

**Mr. Martin Shields:** Thank you, Madam Chair.

I appreciate the witnesses being here from two leading communities of the Blackfoot Confederacy, a very strong part of our indigenous population in Canada.

Stephanie Weasel Child, you talked about the percentage of people on reserve and off reserve. With regard to the services that you provide on the Siksika, is there an extension into the urban area of Calgary?

• (1225)

**Ms. Stephanie Weasel Child:** With our family services, child and welfare has an office in Calgary. The majority of our off-reserve population—I would say about half of that 55%—are located within the city of Calgary. However, there is no extension of having, like a Siksika court office or a Siksika probation office. It just extends to the child and family services office.

**Mr. Martin Shields:** Would it be something that, if there were support, you would consider an extension off reserve to provide that service into the justice system?

**Ms. Stephanie Weasel Child:** I think it would be a very, very valuable tool towards our nation members.

I was talking to the justice staff earlier this week, and they told me the story of a young girl, who I think is only 19 or 20. She got into trouble in Edmonton. She appeared in court. She had a \$60 fine. She had no resources to pay the fine. She had no family to help her out, so she had to go to jail.

If we had a Siksika liaison officer working there, she could have helped her. She could have given her access to the funds or provided some sort of assistance for her. She wouldn't have had to spend a few days in jail and lose access to her child because of that.

**Mr. Martin Shields:** When you talk about the strength of families and the broad definition of families that occurs within indigenous populations, how strong is that relationship when the people are off reserve?

**Ms. Stephanie Weasel Child:** There are more family members who will move into the city because they have a large family base within the city, so it will be stronger for them. But there are families where there will be a disconnect, where it's a bit more broken. They'll lose all ties with the reserve. I've done some work with Siksika membership, and we have nation members who live in South Korea, who live in Texas, who live in the United Kingdom, and they've never returned to Siksika. We have nation members living in Tacoma, Washington, who've never been to the reserve, who probably never will, so that family tie is broken there. There is a disconnect.

**Mr. Martin Shields:** You talked about the number of services that are provided on reserve. Do you have other people come to see the types of services and organizations you have in Siksika?

**Ms. Stephanie Weasel Child:** Other first nations, or...?

**Mr. Martin Shields:** Yes, other first nations, outsiders who may want to know what you're doing there because you're providing a variety of services.

**Ms. Stephanie Weasel Child:** There's nothing that I'm aware of, but I think in talking to the employees of justice, they did state that Siksika is in a unique position because we've had our probation office, our legal aid, and our court system for at least 15 years now. It's not a special court. It's a provincial court, and every Thursday is criminal court, and every third Wednesday is family court. It does help our nation members by having access to those services there instead of having to leave to go to Strathmore or Calgary. I know they have had first nations that have come in and done tours.

**Mr. Martin Shields:** Thank you.

Ms. Frank, in the sense of the relationship and the sense of urban... for Lethbridge and the Blood reserve, I've asked similar questions. Would you like to respond?

**Ms. Lois Frank:** I think it always becomes a jurisdictional issue, and I don't think it needs to be. I have clients who I interview from Saskatchewan, from all over the country, who have made their home in Alberta and are charged with various offences. As an example of being able to work within the current criminal justice system, we had a guy from Saskatchewan who was stopped outside Calgary. He was arrested for not having insurance or something. Anyway, he ended up spending the night in jail—the weekend, actually. When it came to his report, I got a lot of the information from him, made recommendations, told his story. He didn't want to hire a lawyer because he couldn't afford to so he stood up in front of the judge, spoke for himself, and represented himself, which I'm told is not the best thing to do when you're before a judge. He told his story, and he was able to spend three weekends in jail. He didn't lose his job and he was able to pay \$100 over three months. Had he gone the regular route, he would have had to pay a large fine, hire a lawyer, but because he represented himself, and I think because of the work that I did on the report, the judge had a better idea of what he was facing.

In terms of not just being on reserve or off reserve, we're able to do more to help the individual.

• (1230)

**Mr. Martin Shields:** I'm not sure if you've been to the Senate, but in front of the Senate there's a bust of an aboriginal gentleman, the first aboriginal senator, Senator Gladstone, who was from the Blood reserve.

**The Chair:** Thank you for that piece of history, Mr. Shields. Wonderful.

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

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

Thank you to both the witnesses.

This question is for Stephanie Weasel Child from the Siksika First Nation.

Can you talk a bit more about what you're seeing when indigenous women start to interact with the justice system and the incarceration system? Are they losing their children as a result? Are you seeing child apprehensions as a result of indigenous women coming in contact with the law?

**Ms. Stephanie Weasel Child:** Because the women are going into the justice system and there obviously are no jails on the reserves, they can't have that constant contact and their children are going into

care. I know that lately in Alberta there's been a focus on keeping the children within the family unit and getting relatives to take the children and to become temporary guardians. They are working with issues like that.

There is a high rate.... There is a nation member from Siksika who was in the federal prison in Maple Creek, I think, a female prison facility. She did lose all five of her children. Within our conversation with justice staff, it was mentioned that she was still working on getting them back, and she's been out of the corrections facility for about five years now. She still hasn't gotten all of her children back.

**Ms. Sheila Malcolmson:** We had witnesses last week who talked about the calamity that this is and the ongoing multiple generational impacts. It's terrible, and it's something that we want to talk about in our report.

You also mentioned the importance of trying to keep indigenous women out of court in the first place and what we could do around better education for lawyers and judges. I want to read out one of the calls to action from the Truth and Reconciliation Commission. This is number 31, which states:

We call upon the federal, provincial, and territorial governments to provide sufficient and stable funding to implement and evaluate community sanctions that will provide realistic alternatives to imprisonment for Aboriginal offenders and respond to the underlying causes of offending.

That sounds almost exactly like what you said in your recommendations. I see you nodding. That's good.

In the two years since the TRC came out with these, have you seen evidence of changes in that area by the federal or provincial government? Is there any action yet?

**Ms. Stephanie Weasel Child:** I can only speak to the Siksika first nation. With regard to our health department, I know they have been requesting to have an addictions facility on reserve for adults. We currently have one that is a youth treatment centre and doesn't service just Siksika Nation youth; we have youth from throughout Alberta who have been receiving treatment there.

I think having an adult facility would go a long way.... When a mother is looking at jail time, unless she follows certain restrictions from the court, having a facility that's residential where she can go for treatment and take her children with her—so her children can receive counselling and she can receive counselling—would keep the family unit intact. I think that would go a long way towards just.... It's like what Lois mentioned where some clients are saying, "I don't get a chance to talk, so I'm just going to get it over with and just plead guilty." This would give them an opportunity to fight, to tell their side of the story about whatever took place, and to have them remain intact and remain on the reserve where all the services are and where their family is.

●(1235)

**Ms. Sheila Malcolmson:** For both witnesses, two more calls to action from the Truth and Reconciliation Commission focus more on the lawyers and judges receiving cultural competency training, I'm going to read them out. Let me know if you've seen action on this in the last two years and whether there's been positive movement.

Call to action number 27 states:

We call upon the Federation of Law Societies of Canada to ensure that lawyers receive appropriate cultural competency training, which includes the history and legacy of residential schools...[UNDRIP], Treaties and Aboriginal rights, Indigenous law, and Aboriginal-Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.

Number 28 states:

We call upon law schools in Canada to require all law students to take a course in Aboriginal people and the law, which includes the history and legacy of residential schools...[UNDRIP], Treaties and Aboriginal rights, Indigenous law, and Aboriginal-Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.

Have you seen action on those two yet?

**Ms. Lois Frank:** All of those points that you mentioned are really quite simple. We just need aboriginal people to be treated as human beings, and if a lot of the training goes into this process, more power to the people who are serving in the criminal justice system. As an example, if murdered and missing indigenous women were called "murdered and missing women in Canada", we would see things a whole lot differently. But because it's aboriginal, we're not getting what we need to have in these discussions.

**Ms. Sheila Malcolmson:** Is there anything from Stephanie?

**Ms. Stephanie Weasel Child:** With regard to educating legal students, law students, there is a program at the University of Calgary that has students come out to Siksika. Old Sun Community College in Siksika has implemented the Siksika knowledge courses, which are broken up into various topics within Siksika, for example, clans, child.... I can't remember the exact names, but one is based on the treaty; one is based on land claims, one on the clan system, and there is an introductory course that covers all of the topics. There are about 16 courses altogether. There were some law students from the U of C who came out and took a tour. Some of them were actually going to enrol in some of those courses. I don't know if that ever happened—

**The Chair:** We have to wrap up this line of questioning. We can perhaps...after, but we have only a few minutes left.

We have seven minutes for Bernadette Jordan.

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

Thank you to both witnesses for being here today.

Ms. Frank, I'm going to start with you, because you mentioned Gladue, and we've heard a lot about it over the last few weeks that we've been doing this study. We heard last week about the lack of ability for people to access Gladue. How can we, as the federal government, fill those gaps? The people we heard from last week—I believe one was from legal aid—said it's very difficult to get Gladue reports done, that there's a backlog.

Is there something we can do, a concrete action to assist in making sure those reports are done and are able to be used?

●(1240)

**Ms. Lois Frank:** I don't think there's uniformity in this country. In B.C. they do Gladue. I have a lot of clients who come from Saskatchewan, and I think there were only four done there in a certain period of time. We've had over 600 in Alberta.

I'm getting quite a few of these reports, and I see a lot of patterns. There needs to be more research as to what's happening with these Gladue reports.

**Mrs. Bernadette Jordan:** That's actually a very good point. How do we make sure they're addressed in areas where they're not? If you're getting only four from Saskatchewan, but you know that there are more indigenous women who are being charged or going through the justice system, how do we make sure they have access to those? It was the same in.... I think it was Ontario that the gentleman who presented last week was from. If you have 600 in Alberta, obviously you're doing something that they are not.

How do we make sure they are accessing those reports and making sure they are available?

**Ms. Lois Frank:** That's a question I'd pose to this group. We're there. There needs to be a lot more training done. I say "uniformity", because we represent the clients. We need to have people there who have heart, who have the education, who have the experience. That's hard to get, because in some jurisdictions they want Gladue writers to be employees of the system, and that shouldn't happen.

**Mrs. Bernadette Jordan:** Is there an outlet, say for example, for you, who writes so many of them, to reach out to people in Ontario or through legal aid or whatever, to offer how you do it? Is there a way for those kinds of conversations to take place?

**Ms. Lois Frank:** That would be very interesting, and I'd like to see more of the recommendations that we proposed. Sometimes they're ignored, and we've spent a lot of time putting these together. If you understand the Criminal Code, the justice system, you can provide recommendations, but we're told, "You can't tell judges what to do. You can't give recommendations as to the sentence", and I don't understand that.

**Mrs. Bernadette Jordan:** We also have the problem of mandatory minimums, which tie a judge's hands as well.

**Ms. Lois Frank:** I've been doing these for a number of years, and I've never come across a judge who hasn't been receptive. I think that's very positive for people who are involved in the system, but I don't think most native people know about Gladue or the principles of the changes to the Criminal Code.

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

Ms. Weasel Child, I'm going to ask you a couple of questions about Ashley. I'm going to elaborate a bit more on Ms. Malcolmson's questions, and some of the things you said.

You said you've been advocating for an adult addictions centre on reserve for quite some time. You have one for youth, but not one for adults. Is that correct? Did I understand that properly?

**Ms. Stephanie Weasel Child:** Yes.

I haven't been advocating for it, but I know our Siksika health services senior manager has.

**Mrs. Bernadette Jordan:** You said at the beginning of your testimony that a number of your band live off reserve. How do we address the problems of addictions and mental health off reserve? It would be great to have the addictions centre on reserve, but you have a lot of people off reserve as well.

**Ms. Stephanie Weasel Child:** I think Siksika would have to have access to more funding so they can hire nation members to work off reserve in liaison with our nation members who live in the city. They have access to more services, but some of them don't know how to access them. They need that extra help, somebody in the system to help and guide them, to let them know these services are available to them. I know they advocate for them on reserve for addictions, for counselling, for mental health, but off reserve, because it's such a big system, within the Calgary courts or within Edmonton, they seem to fall through the cracks and don't get access to them.

• (1245)

**Mrs. Bernadette Jordan:** I know you can only speak to Siksika, but the ability to offer services in remote and rural areas, because a lot of our reserves are in very remote areas, I'm wondering how we overcome those kinds of challenges. I'm looking for any kind of feedback so the federal government can play a role to make sure we are able to deliver services needed in areas outside a concentrated area.

**Ms. Stephanie Weasel Child:** I think they would have to advocate and put more dollars into training to go to the high schools on reserve and pull out students who have an interest in working in the justice system and corrections and legal, and advocate for them to get some training. Put in the training dollars, because you can't just say this is necessary. I hope they get it. There has to be a concrete solution, a program offered within these remote communities where they can identify or take five students, bring them to Winnipeg or Saskatoon or Edmonton, train them, and then encourage them to go back to work on their reserve.

**Mrs. Bernadette Jordan:** Ms. Frank, would you like to comment on that?

**Ms. Lois Frank:** I think it's really important. The federal government can only do so much. It has to be the leaders in our community, and I'm hard on our tribal leaders. The federal government can make it mandatory, make it so chiefs and councils

can focus on looking after their members and their children, and implement justice programs that work, rather than having something external.

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

**The Chair:** Thank you very much. We're just wrapping up our second panel.

I would like to thank Lois Frank from the University of Lethbridge as well as the Siksika nation.

I would also like to thank you, Stephanie Weasel Child, for coming and sharing all the information with us.

We're going to end the panel, but we're now going to move on to some committee business, so please, Ms. Frank, feel free to leave as you wish. We do have a few things we need to discuss.

Sheila, I'll pass it over to you.

**Ms. Sheila Malcolmson:** Thank you, Chair, and thanks to the witnesses.

I have two things. One is that, on October 28, Correctional Service Canada witnesses said they would table some reports on work they've been doing about administrative segregation and about the amendments they'd been doing to make sure their policies restricted segregation to certain offenders. I just wanted to make sure that hadn't been lost.

The clerk is nodding. Thank you.

The second thing is a request. As we're writing the report on the economic justice study, please, is it possible for us to get the drafts in Word format instead of a PDF so that we can work with them and follow them? Then, for the subsequent drafts, is the analyst able to show tracked changes, which allow us in our committee review to home in a little bit more on what has changed from one version to the next?

**A voice:** Absolutely.

**Ms. Sheila Malcolmson:** The clerk is nodding and the analyst is nodding, so thank you very much, Chair.

**The Chair:** Excellent. Everything is going your way. Fantastic.

I'll pass it over to Sean Fraser.

**Mr. Sean Fraser:** Thanks very much. I only asked for 15 seconds, so I'll try to keep it to that.

I just want to acknowledge that I have an intern, Lauren Maher, who you might have seen joining me for the last number of months, who's finishing up with us on committee today. She comes through a great program from the U.K. The University of Leeds has a great partnership with Carleton, for those who are interested. I've used the program twice now, and Lauren did not disappoint.

I wanted to say thank you for your efforts in the committee.

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

As the chair of the committee, I would like to take the opportunity to thank all of the support staff throughout the 2017 year, whether it's the translators, the people working on the videos, or everybody, for all your great tasks over here.

I also want to thank the messenger. I found out all that you did today.

To our translators, of course, I'm sorry for speaking so quickly, but that's just who I am.

Of course, I'd really like to thank the three here at the front, our clerk as well as our two analysts, for all the hard work you did.

To all our staff, thank you very much for a great 2017. We as members of Parliament would not be able to do it without you, so thank you very much.

Merry Christmas to everyone.

We're going to adjourn today's meeting.

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