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Chair

Mrs. Karen Vecchio

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• (1530)

[English]

The Chair (Mrs. Karen Vecchio (Elgin—Middlesex—London, CPC)): I'll convene today's meeting if everybody could have a seat.

I'm very happy to be here, as we've got some great people to testify. From the Native Women's Association of Canada, we have Virginia Lomax and Katharine Curry. From the Canadian Association of Elizabeth Fry Societies, we have Kassandra Churcher and Savannah Gentile. Denise Peterson is a councillor with the Town of Strathmore.

It's wonderful to have everybody here today. To start, we're going to have seven minutes for each group to be able to give some testimony, and then we'll go to our rounds of questions.

We're going to start with the Native Women's Association of Canada for their seven minutes.

Ms. Virginia Lomax (Legal Counsel, Native Women's Association of Canada): *Meegwetch.*

[Translation]

Hello.

[English]

Good afternoon, honourable committee members and everyone.

My name is Virginia Lomax and I'm legal counsel for the Native Women's Association of Canada. I would like to begin today by acknowledging that the land on which we gather is the traditional unceded territory of the Algonquin Anishinaabeg people. I would also like to thank the Standing Committee on the Status of Women for inviting us to contribute to this important study on indigenous women in the federal justice and corrections system.

The Native Women's Association of Canada has long advocated for the rights of criminalized indigenous women, including those within the federal corrections system. Much of this work has centred on the lived experiences of indigenous women, including their overrepresentation in prisons, as well as the socio-economic conditions that underscore this overrepresentation. Specifically, NWAC's policy priorities related to indigenous women in the federal criminal justice system include the need to abolish the practice of segregation; the need to meaningfully engage in sections 81 and 84 of the Corrections and Conditional Release Act so that the act's legislative intent is better fulfilled; and the need for community-

based, trauma-informed, culturally appropriate alternatives to incarceration for indigenous women.

The over-incarceration of indigenous women is a significant area of advocacy and policy for NWAC, but it is not the only area of the federal justice and correctional system where indigenous women are overrepresented. In Canada, indigenous women are more likely to be involuntarily segregated and face longer segregation placements than non-indigenous women. Presently, indigenous women make up 50% of federal segregation placements. Women may be isolated for months, and even years, on administrative grounds.

While the overall number of segregation placements is in decline, specialized units with similar restrictions are used to the same effect. It is segregation under a different name. Indigenous women continue to experience lengthy periods of solitary confinement, defined instead as modified movement, clinical seclusion, and structured or enhanced supervision. This shift in vocabulary does not necessitate any changes to the condition of confinement, and women may still spend up to 23 hours per day in isolation.

Many psychological and emotional harms of segregation are established and recognized at the domestic and international level. The UN defines solitary confinement in excess of 15 days as torture, and Canadian courts in Ontario and British Columbia have recently ruled the practice both discriminatory and unconstitutional.

Segregation is a particularly cruel practice for women with histories of trauma and abuse, another area in which indigenous women are overrepresented. Their specific lived experiences of colonial patriarchy, intergenerational trauma, and state violence makes them particularly vulnerable to the harmful effects of isolation.

CSC guidelines exclude from segregation prisoners with serious mental illnesses and significant impairments and prisoners who are actively self-harming. However, the standard for serious mental illness is a clinical judgment and must include the presentation of symptoms resulting in significant impairment in functioning. This definition does nothing to protect women with histories of mental illness or those who are experiencing a lesser degree of symptoms, for whom segregation is equally detrimental.

Prohibiting the use of segregation for prisoners who are actively self-harming is an acknowledgement that the practice should not be used to manage mental health crises, but does nothing to address the fact that segregation itself is often the cause of escalating self-harm behaviours.

For these reasons and many others, the Native Women's Association of Canada calls for a complete end to the practice of solitary confinement by any name and for any duration.

•(1535)

Section 81 of the Corrections and Conditional Release Act was intended to allow for indigenous communities to oversee the care and custody of indigenous prisoners, but its potential for indigenous women has yet to be fully realized. Indeed, many indigenous women are unable to access section 81 beds due to the minimum- or medium-security classification requirement. Given that indigenous women are classified at higher security levels, this requirement creates significant barriers. Further, NWAC argued recently before the Supreme Court of Canada in *Ewart v. Canada* that indigenous women are unfairly and discriminatorily classified as higher risk prisoners, exacerbating this barrier. The CCRA does not place limitations on the security classifications, and section 81 agreements were initially understood to be available to all prisoners regardless of classification.

Also complicating access is the fact that there are only two healing lodges for indigenous women. Okimaw Ohci is located on the Nekaneet First Nation in Saskatchewan, and the Buffalo Sage Wellness House is located in Edmonton, Alberta, meaning that women outside of these areas must transfer farther away from their families and communities to access them. There are no healing lodges for women in the Pacific, Ontario, Quebec, and Atlantic regions or in the north. Government support and funding for the creation of additional section 81 healing lodges may help to remedy this inequity.

While section 84 was intended to support indigenous communities and engage them in the reintegration plans of indigenous prisoners, those supports are often not adequately realized. Communities may not have knowledge of section 84 for successful implementation, or may lack resources that women may need to meet the conditions of their release, such as addiction services or employment opportunities. Building resources and capacity in these areas supports entire communities as well as the women returning to them.

There must also be a degree of community ownership and self-determination in the development and implementation of reintegration plans. First nations, Métis, and Inuit communities are better able to meet the social, spiritual, and cultural needs of criminalized women.

The Chair: Ms. Lomax, you're beyond your seven minutes. This will give us an opportunity to ask more questions. Could everybody get your presentation in writing? There is a little bit left to this presentation, so I will make sure that it gets circulated for you, if you wish.

Ms. Virginia Lomax: Sure. Thank you.

The Chair: We're now going to move on to Denise Peterson for seven minutes.

Ms. Denise Peterson (Councillor, Town of Strathmore, As an Individual): Thank you very much. Bonjour. [*Witness speaks in Blackfoot*]

My name is Denise Peterson and I am speaking to you from the traditional lands of the Blackfoot people of Treaty 7. For the past 35 years I've worked as a teacher, principal, and education consultant, and though I am a councillor with the Town of Strathmore, my role here today is as a teacher, principal, and education consultant who is focused on working with young parenting women from the Siksika/Blackfoot nation in southern Alberta. My expertise relates to community-based matters, so that is what I am emphasizing today.

I also want to say that I don't speak for the Siksika, but only in relation to what my time with them has revealed to me regarding the matters before us today. I've opted to speak specifically on indigenous women's access to the justice system and appropriate legal services within our community, particularly as they relate to the very vulnerable population with whom we work.

The judicial matters most commonly having a negative impact on my students relate to the issues such as child custody and support, and being the victim of abuse and assault. My students are most often young women with infants, who must file court documents to access sustainable funding in order to live or to attend school. Often, or most always, they are afraid to do so. In the tightly knit community where they reside, such a simple thing as filing a document to ensure parental financial responsibility often has cataclysmic results. Access to legal aid is nonexistent in such cases, and no support workers are in place to assist.

The pressures of living in a small community impact the capacity and willingness of our students to act on their own behalf. In instances of abuse and assault, the young women who are victims do not have straightforward access to legal services. While victim services organizations exist in these small communities, both on and off reserve, my students regularly voice valid concerns that relatives of the perpetrator's family may be working for the agency. Beyond that concern, if they file charges, repercussions are possible, as we've witnessed far too often.

The committee is looking for recommendations on how to improve indigenous women's experience within the federal justice and correctional systems. In consultation with my community, with my students, and with experts and knowledge keepers, we believe it's important to improve access to legal representation and to ease the process by transferring matters before the court to other venues. We believe it's important to work with other service providers to streamline processes for filing the documents necessary to access student aid and social assistance, and to formally recognize restorative justice in practice as a survival mechanism for resolving matters currently brought before the court. Most importantly, we believe that we need to devise a community court system.

We need to change not only the specific structure of our justice system but also the way people think about justice, and from my perspective, of course, education would obviously be a key. We believe, of course, that there are historical systemic issues, and the previous speaker spoke to them more than adequately. Indigenous students perceive the justice system as a place of punishment, where most often they get lost. It is for this reason that we are such a strong supporter of community courts. Having a crown who is willing to work with the defence to come up with strategic plans and support systems for the accused is probably the most impactful system of support that we have seen. If my community could have this in place, lives and the communities would change.

When my young indigenous students are before the court, very few consider the reasons why they ended up there in the first place. The justice system functions in such a way that only looks at what was done. When it does look at the why factor, it's most often in relation to sentencing and rarely in relation to prevention. Community courts aim to tackle issues of poverty, domestic violence, homelessness, and displacement by identifying the systemic issues that led to the young women being in court, and then setting them up with community supports that can assist them in resolution and restoration.

Utilizing indigenous ways of knowing to build a comprehensive community court process would work. We know that if our government truly believes that the function of the justice system is to focus on prevention, rehabilitation and healing, there need to be major changes in the way our court system works. We need community courts and not just pilot projects. The first step that we need to take is to clearly identify what we believe the intended purpose of the justice system is and what functions it has in our society. If we truly believe that the correct approach is to focus on healing and prevention, my belief is that community courts directed and guided by indigenous community knowledge keepers and experts are the very best option.

• (1540)

Here I reference Roberta Jamieson, and end this by saying emphatically that in our Siksika community we know that our indigenous people possess all the capacity and every requisite element necessary to create and implement community court systems that are a reflection of their proven competency and wisdom. Furthermore, we know they require encouragement, support, and respect as they speak their truth to power.

I want to thank this committee for the opportunity to speak before you, and I really look forward to the outcomes. I thank all the other speakers for the education they've been able to offer me. It's much appreciated. Thank you.

The Chair: Thank you very much, Denise.

We're now going to move to the Canadian Association of Elizabeth Fry Societies.

You have seven minutes.

Ms. Savannah Gentile (Director, Advocacy and Legal Issues, Canadian Association of Elizabeth Fry Societies): My name is Savannah Gentile. I am the director of advocacy with CAEFS.

I want to start by thanking this committee for taking the time to look into this very important issue. I, too, want to acknowledge that we are on unceded Algonquin territory.

The B.C. Supreme Court recently released a decision on segregation that found that segregation disproportionately impacts indigenous women. Unfortunately, by failing to centre on the experiences of incarcerated women, it did not extend this impact to all women, and in particular to maximum security women prisoners. I'll address that issue in a minute.

CSC itself acknowledged in its 10-year status report on women's corrections in stating the following:

Segregation tends to have a significant impact on women [prisoners]. Generally speaking, women are linked to each other through relationships and the isolation of segregation, combined with the crisis or stress the woman is experiencing, can take its toll.....

Despite this acknowledgement; despite the fact that Ashley Smith died in a segregation cell in 2007, the year after CSC's 10-year review closed; despite the completion in 2013 of the inquest into what was deemed her homicide, the Office of the Correctional Investigator reported last year that CSC has failed to implement the very specific recommendations that could have increased funding and community capacity to "provide the level of care necessary to manage challenging or complex mental health cases" in the community.

It's worth noting that even though these recommendations came out of the inquest into Ashley Smith's death, CSC never actually diagnosed Ms. Smith with a mental health issue while she was incarcerated. Instead of implementing these recommendations, "CSC claims that it is too costly to place and treat" women with mental health issues in psychiatric facilities, and further that "these facilities are reluctant to accept complex needs cases". These claims are not entirely substantiated, as the OCI notes, "as CSC has received proposals from external psychiatric/forensics facilities that would expand treatment capacity in the community".

Let me be clear: CSC did not implement recommendations that could have led to a massive change in our ability to treat mental health in the community.

In the conversation about segregation, we would be remiss not to speak about the impact of maximum security. Maximum security is a form of segregation in women's prisons. Women in maximum are subject to restrictive, punitive conditions, and they are isolated from the general population. They experience similar harms. They have similar difficulty adjusting to the general population and to the community more broadly. I am personally aware of a number of cases of women being released to the general population only to be returned to maximum, sometimes first through a segregation placement, due to issues with adjusting.

Indigenous women are significantly overrepresented in maximum security. This has been the case for a number of years. The prevalence of trauma and mental health issues in maximum security is staggering. Despite these facts, there are significant gaps in dynamic security, which result in serious consequences for the safety of women in maximum. There have been at least three serious assaults at the Grand Valley prison for women in Kitchener in the past four or so months that I know of. Two of these assaults resulted in hospitalization, and in one case the women involved had reported their interpersonal difficulties to staff weeks in advance but nothing was done.

To deal with interpersonal issues on the pods, CSC frequently engages in cell moves for the women and engages in what is called “modified movement”, which is essentially locking the women down in their cells under solitary confinement. Women in maximum security have restricted access to education, programming, and spirituality, in part due to a lack of infrastructure to support the unique needs of women in maximum, and also to the fact that these women can't get off the “max” unit to access programming in education in the rest of the prison because of what is known as the “level system”, which was highly criticized by the Officer of the Correctional Investigator this year.

It's not the first time that the Office of the Correctional Investigator has levelled criticism of this kind. In fact, in 2011, the management protocol was eliminated after much protest from CAEFS and the Office of the Correctional Investigator. It was eliminated, only to be replaced by its cousin, the level system, which demonstrates yet again CSC's resistance to change and its inability to correct itself.

• (1545)

The fact that women are over-classified, in particular indigenous women and women with mental health issues, is not news. This year, the Auditor General's report “Preparing Women Offenders for Release” identified that the CSC had not implemented an initial security classification process specifically for women, and it in fact continues to use a tool developed and validated on a population of white male prisoners over 25 years ago.

Moir Law recommended that all women be started at minimum security because CSC's classification scheme is discriminatory. Unfortunately, CSC never published her report.

Before I get into what is possible with the current legislation, I want to say that there is a serious need for judicial oversight and the elimination of segregation in all of its forms. CSC has a track record of failing or refusing to implement recommendations or to correct itself accordingly and cannot be left without this oversight. There's also a need for women to have their sentences revisited where correctional treatment results in the mismanagement of lawful sanction and renders sentences punitive and more severe than that imposed by the sentencing judge. This was in fact recommended by the Hon. Louise Arbour in her 1996 report.

What is possible with the current legislation? In the interest of time, I want to first refer you to Senator Kim Pate's testimony on November 28 of last year before the Standing Committee on Public Safety and National Security. She spoke in depth about section 29, which I briefly touched on in the beginning of my testimony. She

also talked about sections 77 and 80 of the CCRA, which speak to the importance of involving groups with particular knowledge and expertise on women's issues and those of indigenous peoples.

My colleagues today have addressed sections 81 and 84, so I'll just end by saying that all of these sections have been severely underutilized since their inception 25 years ago, in part because CSC policy—not law, but policy—has restricted what the legislation allows, and in so doing has interfered with the intent of these provisions. The requirement of minimum security is a policy choice, not a legislative requirement.

I want to call on you all as members of Parliament who are taking on this very crucial and important issue to exercise the right of access granted to you by section 72 of the CCRA, as Minister Damoff recently did. It's nearly impossible to have a complete understanding of the state of our prisons unless you take the time to go in to meet with the women and to respectfully listen to what they say.

Thank you.

• (1550)

The Chair: Excellent. Thank you so much.

Before we get started, I would really like to welcome Ms. Sansoucy, as well as Mr. Dhaliwal.

Thank you very much for joining us today.

Today, we're going to start with seven minutes of questioning by Bernadette Jordan.

Mrs. Bernadette Jordan (South Shore—St. Margarets, Lib.): Thank you, Madam Chair, and thank you to our witnesses for appearing today. It's all been very good testimony.

Ms. Lomax, I'm going to start with you. You talked about the number of indigenous women in segregation being 50% higher. Is that 50% of women?

Ms. Virginia Lomax: Yes, I can clarify that, absolutely. Presently, indigenous women make up 50% of federal segregation placements. Whether or not that is an increase, I don't have that at this moment.

Mrs. Bernadette Jordan: Okay, thank you.

You also mentioned—and it was interesting because it was something that I brought up at our last meeting with the officials from corrections—that there are no healing lodges in eastern Canada—Atlantic Canada and Ontario.

Ms. Virginia Lomax: Yes, that's correct.

Mrs. Bernadette Jordan: Basically, their thought was that there's not enough population to drive them and that there are also other options available. Can you comment on that? I know we've seen great success with healing lodges, and I know how important they are in the justice system for indigenous women particularly, but if you don't have access to them in your community, are there other options that could help?

Ms. Virginia Lomax: We would certainly like to see the option of strengthening community sentences, community-based sentences, and community release.

To flag one issue, although there may be some successful cases coming out of these healing lodges, something that I ran out of time before being able to say it—clearly my own fault—was that Canada's colonial history has created a real climate and a culture of distrust, where indigenous people and indigenous women see the justice system as not representing them. Therefore, many women in these programs feel that the cultural programming available in prisons represents another form of colonialism, and that's because the programs themselves are largely developed, defined, and designed by the Canadian government and administered by non-indigenous staff.

An issue is that many of these programs present a homogenized view of indigenous cultures, whereas the reality is that the indigenous population of Canada is not an homogeneous population. Many of these programs fail to recognize that teachings and practices that may be relevant in some communities are non-existent in others. What might be protocol, a teaching, or culture in Treaty No. 6 territory, where most of these healing lodges are, would quite simply not be relevant to Inuit, Anishinaabeg, or Maliseet attendees. Acknowledging the differences between first nations, Métis, and Inuit women, as well as the distinct identities within these groups, would lead to the creation and implementation of more effective programs.

• (1555)

Mrs. Bernadette Jordan: Did you submit your comments or a report to the committee beforehand?

Ms. Virginia Lomax: Not beforehand—

Oh yes, we did.

Mrs. Bernadette Jordan: You have? Okay, great. Thank you.

Ms. Virginia Lomax: About two hours beforehand.

Mrs. Bernadette Jordan: Thank you so much.

That's fine, as long as we have a copy. That's wonderful.

Ms. Virginia Lomax: Thank you.

Mrs. Bernadette Jordan: I'm going now to the Elizabeth Fry Societies.

We've heard quite a bit of testimony over the past number of months with regard to the accessibility of the Gladue reports, for indigenous women particularly. Can you speak a bit about your experience with this? How important or necessary are these reports for indigenous women moving forward, and how can they affect the long term?

Ms. Savannah Gentile: We recently began moving away from using the term "Gladue reports", because the woman after whom they are named never got the benefit of those reports, namely Jamie Gladue.

Gladue reports, unfortunately, come at a point too late. They come at the point of sentencing. In our experience, the information in them can often be misused or misunderstood in ways that don't achieve the effects they're meant to result in, namely alternatives to incarceration. Indigenous women are one of the fastest growing prison populations, and I think that shows that these reports aren't actually having the impact they're meant to have.

Ms. Cassandra Churcher (Executive Director, Canadian Association of Elizabeth Fry Societies): There is also a serious lack of qualified and quality Gladue writers and reporters. The process of submitting information or your social history in such a report often requires women to disclose intense histories of sexual trauma, abuse, and domestic abuse. The formalized process itself, where someone discloses their own personal history in a report that will have consequences for their sentencing, requires someone who has quality training and there are not enough people in Canada to do it. Often, women have contacted us because their reports are not complete. They did not feel comfortable disclosing further information, so their sentencing is then incomplete, which completely undermines the purpose of having a social history report.

The Chair: You have a minute left.

Mrs. Bernadette Jordan: My final question is for Ms. Peterson. It is in regard to community courts. This study will bring forward recommendations on how we can help indigenous women access the justice system and better outcomes. If there were one thing that you could ask for, would a community court be that one thing?

Ms. Denise Peterson: Yes. Can I elaborate on that?

In our community, the Siksika community, they've been very successful utilizing the process that they call Aiskapimohkiiks. It is a reflection of the restorative practice initiated under the Braithwaite process, and it has been extremely successful in doing diversion from both court and eventual incarceration.

The other thing we've used very successfully in the program is restorative practices in the schools. The particular school that I work in has a template model that has been adopted by many other schools, where we work on a 360° view to promote prevention to the court systems.

One of the fundamental—

• (1600)

The Chair: Ms. Peterson—

Ms. Denise Peterson: I'm sorry.

The Chair: —we have run out of time. We're going to switch over to the next set of questions, which are going to come from Stephanie Kusie, and then we can get back. Thank you.

Mrs. Stephanie Kusie (Calgary Midnapore, CPC): Thank you very much, Madam Chair.

First, my colleague and I were just wondering about the significance of the pins that you're wearing, if one of you would like to respond to that. I'm referring specifically to the identical ones that Savannah and Katharine are wearing.

I have seven minutes, ladies.

Ms. Virginia Lomax: It's Grandmother Moon, the Sisters in Spirit logo from NWAC's research initiative.

Mrs. Stephanie Kusie: Okay, that's beautiful. That's very nice.

Ms. Virginia Lomax: It's with our October 4 vigils.

Mrs. Stephanie Kusie: We were just curious about that.

It's solidarity then.

Ms. Virginia Lomax: Yes, essentially.

Mrs. Stephanie Kusie: Okay. Pardon me for trying to summarize in such a brief amount of time.

My sister did a research internship at the Elizabeth Fry Society, so I have great respect for the organization. She later went on to Cambridge and is now a successful economist with the Ontario government.

Savannah, why is segregation still used, despite the harmful effects? It's evident from what you have presented that it has horrible and startling effects for the incarcerated. Why is this not being recognized and different, more interactive forms of incarceration taking place? Why is there still such a great use of this method?

Ms. Savannah Gentile: In part, it's due to the lack of oversight of CSC. CSC operates in a cloak of secrecy. There's no transparency. There's not even an independent review of these segregation placements at the moment, although the courts are starting to suggest that there must be an independent adjudicator of segregation placements.

We're of the position that an independent adjudicator doesn't go far enough. It needs to be a judicial oversight, really, to have the effect that we need, to actually start to eliminate this practice.

Over time you see CSC's great resistance to any recommendations, dating back to the 1996 Arbour report. At the time, coming out of that report, we saw the regionalization of prisons, which was meant to create a new model from the "Creating Choices" report. After that process was under way and there were community partners brought in, in consultation, there were women's organizations there for the first time, where women in prison were consulted in the process, and an amazing, brilliant report was brought out.

Unfortunately, in the implementation phase, CSC was left to implement on its own. Very quickly, within a few months of implementation, we saw a change in the vision of these regional prisons to increasing security over time. For instance, at Grand Valley Institution in Kitchener, the guards didn't actually ever wear uniforms; uniforms came in, and quickly from there, we saw a lot of added restrictions.

Go ahead.

Ms. Cassandra Churcher: I'd love to jump in. I don't know how much time we have.

Getting back to the issue of segregation, that is something we actively engage on with the wardens all across Canada. We have regional advocate teams that monitor the conditions of confinement all across Canada. It is a standing issue on our agenda with every warden in Canada why they continue to use segregation in all its forms. We are often told that it is the last resort, or there are no really concrete alternatives, or sometimes that the women ask for it.

We have engaged in offering alternatives, many of them community-based. If a woman can't deal with the reality of what prison life is like, why not get her an escorted temporary absence so she can engage in the community? There are alternatives that exist.

Mrs. Stephanie Kusie: Thank you very much.

Virginia, further to that, would you say that healing lodges use practices that involve less segregation? If so, what benefit would

additional healing lodges across the country provide, as indicated by my colleague across the way—for example, in Eastern Canada—for indigenous women who are incarcerated?

Ms. Virginia Lomax: It's our understanding that the lodges are less restrictive, that segregation is not used there in the same way it is in prisons, and that there's at the very least a focus on more culturally based healing and restorative justice, which is in line with a lot of indigenous legal traditions.

• (1605)

Mrs. Stephanie Kusie: Please go ahead, Katharine.

Ms. Katharine Curry (Policy Analyst, Native Women's Association of Canada): I believe Okimaw Ohci also doesn't have any fences, and women are able to access the land for spiritual ceremonies. It's less of a physical barrier—

Mrs. Stephanie Kusie: Sure, and that would be significant for them and their healing.

Savannah, from your experience, how has the process of involving victims of the crime in justice processes, such as having them appear at sentencing and parole hearings, affected the possibility of indigenous women being charged and incarcerated? Does it have an affect at all if the victims are present or not present? We're always interested in the victim implications of the processes.

Ms. Savannah Gentile: I can't, off the top of my head, find any instances where I've actually been involved in a case where that has happened. I'm not sure I could speak to the impact of having victims present or not.

I know that most of the women I meet with are very remorseful and in no way reject having the victims present. They're very willing to take responsibility, and in some cases, a little too willing. We have done some research on the hyper-responsibilization of indigenous women and the effect of their taking responsibility even when they may not be legally responsible. It's a very big problem.

Mrs. Stephanie Kusie: Women feeling guilty; imagine that, Madam Chair.

The Chair: You have 40 seconds left.

Mrs. Stephanie Kusie: Sure.

Kassandra, does your organization have difficulty assisting indigenous women in rural areas? Of course, as Conservatives we have large rural areas that we represent.

Ms. Cassandra Churcher: Absolutely. I've spent six years in Nunavik, a remote, fly-in community in northern Quebec, so I can tell you that Nunavut and Nunavik are completely off the map in these discussions. There are little to no services for them. As for most Canadians across the country, if you're in a rural or on-reserve community, you have a severe lack of access to justice and appropriate services to deal with these issues.

Could I address the healing lodge question that you asked my colleague?

The Chair: Actually, no.

Ms. Cassandra Churcher: I'm just going to flip it in.

The Chair: I'm sorry Kassandra. We'll try to work that in.

I'm just going to move on to Brigitte Sansoucy for her seven minutes.

[*Translation*]

Ms. Brigitte Sansoucy (Saint-Hyacinthe—Bagot, NDP): Thank you very much, Madam Chair.

My first question is for the Native Women's Association of Canada.

Officials from the Correctional Service of Canada have appeared before the committee and said the following:

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 [...]

Various experts have appeared before the committee and denied that statement.

Last August, you published a report indicating not only that aboriginal women offenders in federal custody do not have access to adequate programs and services during their sentence, but also that the existing programs are not culturally suitable or focused on their reintegration into the community.

More than six months after your report, and in light of the testimony by the Correctional Service that I just quoted, do you still come to the same conclusions?

[*English*]

Ms. Virginia Lomax: The question is, have we changed our opinion—

[*Translation*]

Ms. Brigitte Sansoucy: Yes. The people from the Correctional Service maintain that everything is fine.

[*English*]

Ms. Virginia Lomax: —on whether service is directed toward indigenous women adequately?

[*Translation*]

Ms. Brigitte Sansoucy: Whether there is a focus on reintegration into the community?

[*English*]

Ms. Virginia Lomax: You're asking whether or not there is an adequate focus on reintegration back into community?

[*Translation*]

Ms. Brigitte Sansoucy: Yes.

[*English*]

Ms. Virginia Lomax: I don't think we would have changed our position on that at all. As much as some of these programs are targeted toward indigenous women, our understanding is that the differences between indigenous women have not been recognized and the focus on reintegration into the community quite simply isn't there.

One of the really big problems we have been finding is that some indigenous women are sort of “incentivized out” of using the programs that are directed towards them, because the process to get into the programs can take so long that it's quicker for them to get

parole if they don't opt for their culturally relevant programs. Another major issue is just the classification of women in even being able to access the programs. Over-classification of indigenous women in maximum security prisons is a very real problem.

While programs may be developed and there is hope that these programs will be directed toward reintegration, one of the biggest issues we're seeing is the push towards a homogenized idea of what it means to reintegrate indigenous women back into their communities. Also, they're simply not accessing those services.

• (1610)

[*Translation*]

Ms. Brigitte Sansoucy: Thank you.

My next questions are for representatives of both the Native Women's Association of Canada and the Canadian Association of Elizabeth Fry Societies.

I would like to talk about searches and the use of force. The members of the Elizabeth Fry Society who visited the Edmonton institution last fall said they were shocked to see that aboriginal women were subject to very invasive searches. They were asked to lift up their breasts and spread their buttocks. This brings up painful memories for those who may have been sexually assaulted. You said that a female offender who had refused this type of search was pepper sprayed.

According to the Office of the Correctional Investigator, in 2016-17, strip search procedures were not followed 25% of the time.

I would like to hear your recommendations regarding search practices and the use of force.

Ms. Kassandra Churcher: I would like to answer the other question, the one you asked earlier.

Ms. Brigitte Sansoucy: No problem. If you have additional information, that is fine.

Ms. Kassandra Churcher: This is interesting. We are talking about the rehabilitation of aboriginal women and their reintegration into the community, yet we know that there is not enough housing in aboriginal communities and that mental health and addiction treatment services are insufficient. There is some willingness, but where can the women turn? Even their own community does not have access to the services they need. The infrastructure and resources needed to help women rehabilitate and reintegrate into the community upon release are not there.

Prevention work is needed as well as the necessary resources in the community to support aboriginal women upon release.

I will let my colleague talk about strip searches.

[*English*]

Ms. Savannah Gentile: Strip-searching has been a very large issue that we have begun to really try to address this year. Certain prisons are engaging in mandatory strip-searching after all PFVs—private family visits—and all escorted temporary absences out to programs, to church, and to work releases. Essentially, women are engaging in programming that they must engage in for their correctional plan to move toward successful release and, as a result, when they are returned to the prison, they are being strip-searched.

That's happening on a mandatory basis at Grand Valley prison for women. We've been trying to challenge that since September at least, and definitely before then. The same issue is happening at EIFW, absolutely. I spoke with one woman who, because of the level system, was strip-searched every time she returned after being brought off the max unit to engage in programming that was dealing with trauma or the issues that led to her incarceration in the first place.

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

We're now going to continue with Pam Damoff for seven minutes.

Ms. Pam Damoff (Oakville North—Burlington, Lib.): I have a number of questions I'd like to ask, so if you could keep your answers brief, that would be helpful. Thanks to all of you for the work you are doing on this issue.

I did have the privilege of visiting the Buffalo Sage healing lodge. One of the programs that the women talked about is the I Am a Warrior program. I believe that what's it's called. It's offered at Buffalo Sage because it's run by the Native Counselling Services of Alberta, but in CSC-run healing lodges it's not allowed. Are you familiar with the program? Do you think it should be more widely available?

• (1615)

Ms. Virginia Lomax: I'm not familiar with that program.

Are you, Savannah?

Ms. Savannah Gentile: No, I'm not familiar with the program, but it's not surprising to me that the healing lodges run by CSC wouldn't allow certain programming like that. Unfortunately, the CSC-run healing lodges have become increasingly more secure environments. In fact, section 81 doesn't require that a community create an institution for section 81 agreements. It can just mean bringing into the community resources—mental health resources—that address the actual needs of that person. You don't need an institution for that.

Ms. Pam Damoff: Working on better programming that's more culturally sensitive and not being as prescriptive in programming...?

Ms. Savannah Gentile: Absolutely.

Ms. Pam Damoff: Okay.

I want to talk about mandatory minimums because I met a number of women who had been caught up in being sentenced under mandatory minimums, one of whom was at the medium-security Edmonton Institution for Women. I wonder if you could comment very briefly on the impact that mandatory minimums have had, and if you think we should be looking at getting rid of mandatory minimums for everything except the most egregious crimes.

Ms. Virginia Lomax: Absolutely. It's certainly something that we think needs to end. One of the big reasons for this is that indigenous women are often presumed to be a higher-risk individual or more violent than other women. This is a stereotype, but it infuses our justice system, and this is certainly impacting indigenous women and extending their stays beyond what they may actually serve in circumstances...to be brief.

Ms. Savannah Gentile: To do away with a judge's discretion means that you cannot consider the context of a woman's crime, and

women's crimes absolutely need to be placed in their context. If it's a violent crime, there's often resistive violence. Often, there's abuse that has led to the crime.

Ms. Pam Damoff: One of the ladies we met had been in an abusive relationship and was at Buffalo Sage. She was very thankful she was there and not in a different type of institute.

The other one is accelerated parole, which is for low-risk, non-violent offenders. The previous government got rid of that. What I heard a lot from everyone to whom I spoke is that it was meaning that people were having to stay in institutions longer rather than being reintegrated into the community. What are your thoughts on reinstating accelerated parole?

Ms. Savannah Gentile: Yes, absolutely. We would be of the opinion that it absolutely needs to be reinstated. It was a very big hit to women in prison that they couldn't benefit from accelerated parole. There are a few women who still qualify because of the dates of the investigations for their crime, but otherwise it was devastating to women.

Ms. Pam Damoff: I want to clarify something on segregation. There's actually a bill that was introduced last spring, Bill C-56, and I encourage you to watch its passage closely, because it deals specifically with administrative segregation. I know that CSC brought in new guidelines last summer such that anyone who is at risk of self-harm or suicide, or who has severe mental health issues, could not be put into administrative segregation. I want to clarify that there is legislation coming, and I encourage you all to watch. It's been introduced. It's not at committee yet.

Ms. Savannah Gentile: Could I comment?

Ms. Pam Damoff: Yes.

Ms. Savannah Gentile: Unfortunately, CSC's saying that women won't be placed in administrative segregation doesn't mean that women won't be placed in segregation or, in fact, in solitary confinement.

Women are frequently placed on what's called "mental health watch", in a segregation unit most often, and are monitored by camera. They sometimes are placed in a "doll gown", which is essentially a gown to reduce the risk of harm—such as, for instance, that she could tear something off the gown. They are still under conditions of solitary confinement, just by another name, and this is one of the ways that which CSC gets around some of the regulations.

What we say in response is that women who are on mental health watch and anything of that name should be deemed to be under administrative segregation so that those safeguards are in place for them, at least until the time when we can do away with the practice altogether.

Ms. Pam Damoff: Do we need more mental health beds, forensic mental health beds, for women? How many do we have?

• (1620)

Ms. Savannah Gentile: I think there are two mental health beds currently for women—two.

Ms. Pam Damoff: Two?

Ms. Savannah Gentile: Yes, under section 29. Unfortunately, as I said earlier, CSC has had requests and has just have not acted on them. CSC will tell you that there isn't an interest and that it's not possible. In fact, I heard from a member of CSC in a meeting that they're not looking at section 29 anymore.

Ms. Pam Damoff: We're here to try to come up with solutions, and we're not going to look backwards. We're going to look forward

Ms. Savannah Gentile: Absolutely.

Ms. Pam Damoff: —and make sure that we try to fix this. I was shocked at the number of mental health beds for women and the lack of services. Do you think women in the corrections system need 24-7 health services? Sometimes, because of cutbacks, they're not able to offer programming 24 hours a day seven days a week; it's nine to five. What are your thoughts on the availability 24-7?

Ms. Virginia Lomax: Yes, there needs to be availability 24-7. This is especially true for indigenous women. I wanted to add to the discussion of mental health that symptoms of mental health can appear differently. Again, mental health is a clinical judgment, and these systems can appear differently for people who have experienced intergenerational trauma. I just wanted to make sure that this is really clear: these issues of the symptoms appearing and how someone might get access to services are going to be different for indigenous women. That's my point.

Ms. Pam Damoff: I have only 20 seconds left. Should we be doing a gender-based analysis of the job training programs that women are doing? Yes or no? I ask because I saw sewing for women and cabinet-making for men....

Ms. Savannah Gentile: Absolutely: women need more vocational options than sewing.

Ms. Katharine Curry: At the Joliette Institute, they actually make men's underwear for male prisoners.

The Chair: Thank you so much for adding that.

We are now on our second round. There will be five-minute questions. We'll begin with Rachael Harder.

Ms. Rachael Harder (Lethbridge, CPC): Thank you so much, everyone, for being with us today.

My questions will be focused toward you, Ms. Peterson. If you had your say, would you say that we should be focusing our attention, our time, and our money on preventative care, programs, and initiatives? Or would you say that we should be focusing on post-incarceration?

Ms. Denise Peterson: I think we're very entrenched in coping, and in fact struggling, with existing structures, and are all very aware that none of them are working. In my world, we work extremely successfully on court diversion and prevention. The Siksika Nation has been incredibly successful in doing this. They've been successful in working with programs around restorative practice and Aiskapi-mohkiiks, and that has seen both prison and court diversions.

The preventative method is immensely important. I don't in any way denigrate anything that's being said by the other presenters today, because it is all very true, but so much of what we are engaging in is a treadmill, the gerbil-and-the-treadmill kind of

process. A year and a half ago, we received information from the Alberta FASD network around the Edmonton Institution for Women. That report said that 100% of the women incarcerated were indigenous. You talk about prevention, but there were absolutely no options for these women, some of whom were our students, with regard to looking at the brain injuries they had suffered and the severe pressures that they were undergoing in incarceration.

We've seen the difference in what happens to.... Because we live in Alberta, we have had access to Buffalo Sage and to the treatment centre in southern Saskatchewan—very limited—but we're so short of those beds. What I can tell you is that we see the aftermath as well. For young women coming out of the programs that have had the healing centres that were not run by Corrections Canada, their capacity to cope with post-traumatic stress syndrome, which every single one has a clinical diagnosis for, was 100% better, and their improvements were so much more.

In our population, we know that working on and dedicating these immense resources to prevention have created incredible results over the last 20 years. Those have come about by the nation weaving this safety net in a 360° view, individualized education programs, and bringing all services providers to the table.

One of the things that we really believe is missing in our community is that community courts concept. If that were a reality, we think it would give that aboriginal voice, that indigenous voice, the power that is needed to effect the preventative strategies in a more profound way.

If I had to answer your question succinctly, I would say that I would like to see the money put into prevention, most certainly.

• (1625)

Ms. Rachael Harder: Thank you, Ms. Peterson.

I have less than two minutes left on the clock, so my next question is this, because you've already hit on it and I'm just wondering if you can expand on it further. Where is our money better put?

Is it better put in departmental programs, in that direction, or is it better put on the ground with communities that are going to work with indigenous individuals right in their homes?

Ms. Denise Peterson: There is absolutely no question in my mind that indigenous people have the answers to the problems that are assailing them in society. We absolutely need to put the power into their hands. As Roberta Jamieson has said about speaking truth to power, they absolutely need to have the power to reconcile the suffering of their own people, and non-indigenous people need to support that process.

Ms. Rachael Harder: Very quickly, just so we have a working definition, when you talk about “community courts”, what do you mean?

Ms. Denise Peterson: There are examples of community courts in pilot projects in Calgary like the drug courts, where there is co-operation between the crown and defence. There is court support around developing strategic planning and there are options to use indigenous-based restorative practices.

It still is within the court system, but the court system has a more holistic process in involving service providers, crown prosecutors, and defence counsel. They have a mandate to come up with a strategic plan to have the community come together to work with supporters on both sides—the victims and the offenders—to a resolution, with the option of going back to court.

The Chair: Excellent. Thank you so much.

We're going to continue for the next five minutes and into the next hour, if you don't mind.

We have five minutes for Sean Fraser for the final round.

Mr. Sean Fraser (Central Nova, Lib.): That's perfect.

Thank you so much to each of our witnesses. We do have five minutes, so to the extent that you can give concise answers, I'll get more questions out, and that would provide great value, given the testimony we've heard so far.

First, for our friends from Elizabeth Fry, you spoke at length about the classification system. What is the fix to achieve the judicial oversight you're looking for? Is it a legislative fix that we really need here? How can we achieve that level of judicial oversight?

Ms. Savannah Gentile: There are a number of ways. I think the importance here is to start engaging and asking those questions and finding answers. We don't have all of the solutions worked out. What we know is what's not working. Absolutely, we're trying to work with systems that aren't working.

Mr. Sean Fraser: I was going to say, still on the issue of classification, that you mentioned this ridiculously outdated tool that was designed 25 years ago for white guys. Obviously a new tool with a gender-based analysis plus should be established. Who is in the best position to do that? How can we go about creating a culturally sensitive and appropriate classification tool?

Ms. Savannah Gentile: I'm not sure, actually, that I'm comfortable speaking on a classification tool because that operates under the presumption that—

Mr. Sean Fraser: That the classification is fair...

Ms. Savannah Gentile: —people will be in prisons, and we are, as you know, prison abolitionists.

As I said, Moira Law wrote a great report. The CSC didn't publish it. I do have a copy of that report. If anyone is interested, I'd be happy to send it out. As I suggested, she recommends that all women start at minimum security. That was her conclusion, based on a lengthy research project.

Mr. Sean Fraser: If there are answers that you would have liked to get on the record today, or things we should read, I would ask you to please send them through the clerk to get them on the record, and we can consider them that way.

Ms. Savannah Gentile: Okay.

Mr. Sean Fraser: Ms. Lomax, you mentioned—and I think the witnesses from Elizabeth Fry piggybacked on this as well—the CSC guidelines dealing with the exclusion of serious mental illness and the problematic definition that essentially allows them to put a person in administrative segregation by another name. What is the problem with the definition? More importantly, how do we fix it so

that we're not dealing with this problem that just seems to perpetuate segregation?

Ms. Virginia Lomax: My point is that we need to end segregation. If you want a concise answer, it's that we have to end this process. No matter what you call the process of isolating a person and letting them sit there with no contact with the outside world, and with all of these things that the UN itself has defined as torture, we need end this practice.

Mr. Sean Fraser: On that issue, I believe—and I could be mistaken—that you explained that this was really an administrative decision that's being made at the institutional level.

• (1630)

Ms. Virginia Lomax: Yes.

Mr. Sean Fraser: As a federal government, is this a legislative fix? To put the same question to you in a different context, how do we go about ending it? Do we forever ban it with a piece of legislation that says it can't happen anymore?

Ms. Virginia Lomax: Yes, it could certainly be a legislative fix.

Ms. Savannah Gentile: International tools are there, actually—

Ms. Virginia Lomax: Yes.

Ms. Savannah Gentile: —to assist in that as well.

Mr. Sean Fraser: That's fabulous.

Moving to you, Denise Peterson, you mentioned some of the great features of the community courts. Congratulations on the work you've done on this issue. It's very intriguing to me. We've seen different kinds of specialty courts pop up in different provinces. In my home province of Nova Scotia, we have a fairly new mental health court that's shown some real promise.

I would suggest that adopting a similar approach with community courts for this kind of scenario would be similarly promising. There is one obstacle that's staring me in the face, the fact that the administration of justice typically falls within the purview of provincial governments. Obviously, when we're dealing with indigenous persons, the federal government has a bit of a role to play. How can we get this done? What's the fix for the problem? Is it partnering with provinces, or funding agreements...? How do we achieve this?

Ms. Denise Peterson: I think you have already stated the answer. The existing templates that I've seen recently in Manitoba around education have been incredibly successful. Working through it with indigenous voices in the forefront, working toward creating memorandums of understanding would work. It could be legislated.

Mr. Sean Fraser: Finally, in the last 40 seconds, Ms. Churcher, could I have your answer to the healing lodge question?

Ms. Cassandra Churcher: I'll take my five seconds to focus on “decarceration”. If it becomes an issue of money and economics, don't put the money into the prisons; put the money into the communities and get them out. The issue is overrepresentation of indigenous women. You've heard about it, so get them out. Moreover, don't recreate indigenous healing lodges; let the indigenous communities heal them.

Mr. Sean Fraser: In my last 12 seconds, I will say thank you very much.

The Chair: Thank you so much for all of your testimony: the Native Women's Association of Canada, the Canadian Association of Elizabeth Fry Societies, as well as Denise Peterson for coming as an individual.

I'm sorry to have cut you off, Ms. Lomax, but there was a request to take your opening remarks to translation so they could be circulated. As well, the submission of yours that we received is also being translated now. Thank you very much.

Ms. Damoff.

Ms. Pam Damoff: I wonder if Elizabeth Fry could make their report available to the committee.

The Chair: Cassandra and Savannah, if you could deliver that to the clerk, that would be fantastic.

Thank you very much.

We're going to adjourn this part of the meeting and move into subcommittee.

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