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Chair

The Honourable John McKay

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• (0845)

[English]

The Chair (Hon. John McKay (Scarborough—Guildwood, Lib.)): Good morning, everyone. It's 8:45 and we need to get started. We seem to have a paucity of witnesses this morning, so by default, Ms. Gentile is first up as witness.

We do know that Senator Pate is going to be late, and we have no idea where Mr. Freeland is. With that, Ms. Gentile, you have 10 minutes to make your presentation.

Ms. Savannah Gentile (Director, Advocacy and Legal Issues, Canadian Association of Elizabeth Fry Societies): Great. Thank you for having me. My name is Savannah Gentile. I'm the director of advocacy and legal issues with the Canadian Association of Elizabeth Fry Societies. I want to thank you for giving your time to these really important and pressing issues.

In order to talk about indigenous peoples in corrections, I feel it's first very important to provide a context for these issues. I want to talk about the institutional trauma that is experienced by indigenous communities, and in particular by indigenous women. This trauma begins long before a federal sentence. It begins with residential schools, with the sixties scoop, and with the continued, ongoing apprehension of indigenous kids into the child welfare system.

I want to quote Dr. Cindy Blackstock directly because I think it's a powerful statement. Just this month, she reiterated the fact that there are more first nations kids in child welfare today than at the height of residential schools. What is the most common reason for apprehension? It is issues related to poverty.

It should come as no surprise then that 80% of women who are criminalized in this country are criminalized for poverty-related offences. Indigenous women and girls are overrepresented at every level of the correctional system— youth, provincial, and federal. They are in fact one of the fastest-growing prison populations today in Canada.

Once in prison, there's added inequality and discrimination, as indigenous women are overrepresented as well in maximum security and segregation placements, where they have limited access to culturally sensitive programming and mental health supports. In light of the federal government's commitment to reconciliation, to recommendation number 30 of the Truth and Reconciliation Commission, to the facts I've just stated, and to the number of reports verifying the systemic nature of these issues, our efforts as a

country must be focused on getting indigenous women prisoners out of prisons.

I know the mandate of the committee is to look at programming within prisons. I want to talk a bit about why programming in prisons is not really one of the solutions, and it's actually a part of the problem. In fact, substantive equality demands that we do things differently, that we move women outside of the prison system. Really what it requires is a major paradigm shift, one which CSC has frequently and demonstrably resisted.

I want to talk about section 81 agreements. Section 81 of the Corrections and Conditional Release Act offers the opportunity for indigenous communities to sponsor indigenous prisoners to serve their sentences in the community. This offers the opportunity for much-needed resources to be redirected from prisons into indigenous communities that are in need.

However, section 81 has been around as long as the CCRA, but it's severely underutilized. There are a number of reasons for this. These reasons have actually been documented extensively by the Office of the Correctional Investigator in the report "Spirit Matters".

I want to talk a bit about how CSC has frustrated the purpose of section 81, in one way by diverting funding from section 81, that is, agreements based in community, to prison-based interventions like pathways units that currently exist within many of the prisons—in five of the regional facilities across this country, I think.

Diverting funding, again, is documented by the Office of the Correctional Investigator. Much of the funding meant to be allocated to section 81 agreements was at a point diverted by CSC into prison-based interventions. This is actually quite contrary to the purpose of section 81. The purpose of section 81 was meant to address concern over the growing number of indigenous people in our prisons. Obviously, by diverting funds to prison-based interventions, you're not accomplishing that goal.

●(0850)

One of the major impediments, in fact, to the development and maintenance of section 81 agreements is funding inequity and insecurity. They operate on five-year funding cycles. The funding difference between CSC healing lodges and section 81 community agreements is quite substantial. This means that there is a lot of turnover when it comes to employees. In fact, it is known that section 81 healing lodges have become a training ground for CSC.

One of the major barriers created by this funding inequity speaks to the inadequacy of providing indigenous programming inside prisons. Again, this is recorded in “Spirit Matters”. What some of the existing section 81 agreements speak to—there are not many, especially for women prisoners—is the pressure put on them by insurance companies to follow CSC security-related procedures, which these indigenous organizations feel are inconsistent with an indigenous approach to healing.

When you have indigenous programming within a CSC facility, you are already.... It's a bad starting point, because it is a colonial structure. We have to acknowledge the reality of that. Indigenous ways and practices cannot be seen to their end in this kind of structure.

I was formerly a regional advocate. I went to Grand Valley Institution for Women on a regular basis for over a year. They have a pathways unit. I can say from experience hearing from women that there are a number of ways those units don't adhere to indigenous culture. For instance, the elders are on CSC contract, so this creates a distrust between the women in the pathways unit and the elders.

In addition, there are limited spaces for indigenous women in the pathways unit, which means that a number of women have no access to pathways. At the same time, culturally based ETAs, escorted temporary absences, are often limited to the women in pathways. Other indigenous women in the prison miss out on those opportunities because they are not in the pathways unit or because they've been kicked out of the pathways unit for behaviour that is the result of dealing with trauma, which is the point of those units. That's another way in which CSC has frustrated the purpose of section 81 agreements.

I just want to emphasize again that substantive equality calls for a different approach to these issues. We've tried it in the prison for a number of years. There has been an erosion of the “Creating Choices” principles that the regional facilities in our country were founded on. That erosion began before the foundation was even firmly set.

The lack of section 81 agreements and the erosion of “Creating Choices” speak to the fact that CSC is not able to readily implement substantive equality approaches within its facilities. It's not going to happen. We need a different approach, one that moves women outside of the prison system.

●(0855)

The Chair: Thank you, Ms. Gentile.

Welcome, Senator Pate and Mr. Freeland. We appreciate your contribution to the committee.

Mr. Freeland, you have 10 minutes, please.

Mr. Neal Freeland (As an Individual): Thank you. I've written

some words down, so I'll just read that.

"Indigenous People in the Correctional System"

I said that to myself and it rings in my ears like vulgar profanity,
Mostly because I'm here addressing this colonial body of the government,
Responsible for putting so many of my people into prison,
Because this is in English and not in Nakawemowin, a.k.a. the Saulteaux
language of my people,
Because I don't speak my language and have to relearn it after having it taken
from me.
I am doing this in poetic form because this is how I learned to use my voice.

"Indigenous people in the correctional system"

Rolls off my tongue, and I feel like I've been punched in the face all over again.
I didn't know what to think when I was invited to speak here.
What do I say?
And I thought what do I have to say, that these people with degrees and titles can't
say better?
What do I say?
When you're already aware of anything that I could say to you about the stats,
about the facts,
About the system that you know full well is broken.
What can I tell you,
About why my people are in prison more than any other segment of the
population of this country.
What can I tell you,
That you haven't read about
In a million plus one reports.

It was always about where to begin,
How to begin,
Not what to say.

If you're native...
If you're native in this country you know someone in your family is in prison.
If you're native,
That's a fact.
If you're native,
That's the reality of growing up in this country.

And if you're unfortunate enough to be Indigenous and find yourself going to
prison,
Then you know you're staying until the very end—I'll speak more about that later
on—
Especially true in the Prairies
Because
In the Prairies we know that we'd not see the light of day until our time was served
and then some.
Short timers know that without a doubt, they will be there until their stat release.
They know that it's useless to take programs because if you're native—
No, that's not what I want to say—when—
When you're native, taking programs counts as nothing,
Nothing at all to the parole board,
Counts as nothing to your parole officer,
Counts as nothing to anyone working inside of CSC,
Counts as nothing, nothing,
Except futility and the death of hope.
And that's the cruel joke—or maybe it's not a joke,
But the official "unofficial" narrative.

We know that's the point too.
We know that's the point of putting us there in droves.
We know that's the point of sending us to jail, to prison.
We know that's the point of keeping us there.

We know that's the point of the correctional system in this country.
The justice system's mission is to breed the ideal of futility in the native person.
Correctional services Canada was mandated to
Eviscerate hope from the native spirit..

And to the native person in Canada,
Jail is just another word for genocide.
To the aboriginal person in Canada,
Incarceration is just another word for genocide.
To the Indian person in Canada,
Prison is just another word for genocide.

To the indigenous person in Canada,
Rehabilitation is just another word for residential school.

Take us from our families, just like residential schools.
Scatter us from our communities, just like adopting us out across the world in the
sixties scoop.
Remove us from our culture, just like outlawing our cultural practices.
Dictate what culture we have access too, creating laws to say what we can
practise,
How much culture, when and where and who with, just like the Indian agents.

Sell the lie of hope that if we take programs, we'll earn early freedom.
Sell the lie of life that if we behave, we'll earn early freedom.
Sell the lie that all prisoners are equal.
Sell the lie of being able to start over.
Sell the lie of getting out to something better than that which we were taken from.
Sell the lie, sell the lie, sell the lies.

When I was young, I looked at my life inside and wanted something different.
I said "I'm not going to die here."
I said "I'm not going to end up like that grey-haired old man broken down, bent,
and worn down here."
"This isn't where I end."
"This isn't where my story ends, finishes for me."

When I was young, I knew I was messed up.
When I was a youth, I knew that I needed help.
I knew I'd never get out unless I did something to change.
I knew that if I wanted to leave, I didn't want to leave messed up.
I knew that I needed help and so I took what help was there.

And that help was useless.
And that help was worthless.

I took breaking barriers.
I passed through cognitive skills.
I worked through anger management.
I participated in anger and emotions management.
I took the ABC program and just like so many,
The list goes on for Indigenous offenders taking programming
That CSC and the parole board give but absolutely no one cares about.

So why take it at all?
Because if you don't, there really is no hope.
I was told when requesting breaking barriers that I was a lifer and it was denied to
me.

So why participate at all?
Because if you don't, there is no chance.
I was told that I would not be given access to programming until my day parole
eligibility.

● (0900)

So why try at all?
 Because if we don't, we can't lie to ourselves and believe in hope.
 I was told that short-timers received programming before lifers.

Why sit in programming?
 Because we still had the illusion that it matters to.
 I was told that I didn't need to worry about programming and that I was fine as I was,
 that my time would come for programming in about eight years.

We as inmates start with the visceral cognitive phantasm of belief that yes it matters,
 That it matters to anyone on that side of the table,
 But it doesn't matter.
 It doesn't matter.

It doesn't matter because the parole board doesn't care about our programming.
 It doesn't matter because the parole board knows we're native and that the system will bring us right back.
 Breach us and in we go again.
 It doesn't matter because the system only exists as long as there are prisoners to put through it.
 Native people are easy to breach because no one cares if we're in prison.
 Because if we're all locked up, then no one has to feel guilty for stealing our land.
 Because if we're all locked up then no one has to feel bad about small pox blankets;
 No one has to worry about our land rights, our safe unsafe drinking water;
 No one has to think about the sixties scoop children taken away because we were born native';
 No one has to feel a thing about the residential schools and the children molested there,
 The children murdered there,
 The children whose souls were ripped from them,
 The children whose spirits were leached away until they were husks sent back to the reserve.
 It doesn't matter, because if we're locked up,
 No one has to feel bad about anything sacred taken from us.
 It doesn't matter if we take programs; it doesn't matter because no one cares about criminals.

And it doesn't matter because
 That's what the system does: it makes entire generations of my people criminal,
 And therefore in the eyes and hearts of mainstream non-indigenous society,
 Worthless,
 Good for nothing criminals that no one wants to associate with,
 Or look upon,
 Give a job to,
 Give a chance to,
 Or respect the rights of, because once upon a time,
 We went to prison,
 And therefore forfeited all rights of belonging to humanity evermore.
 The system is wielded against my people as a weapon of genocide far more effective than residential schools,
 Because it's made the average citizen think of natives as criminals first and foremost,
 Because that is the lie being sold to the people of this country.

So that brings us to accessing mental health services,
 And all I can say here is this:
 They aren't given access because non-indigenous offenders are given priority,
 Even in the Prairies where up to 75% of the inmates are indigenous.

Then again there's never enough psychologists in any given prison to begin with,
 And this is who you have decided to entrust the psychological well-being of the convicts to:
 Overworked, underqualified people, who by default are set up by the system to fail.
 Those are the people you call mental health services,
 And they can't help you in prison,
 Because they don't know what it is that you're dealing with,
 Because they only imagine the horror and torment that you face every day,
 Most of it from the prison staff, the guards that hold all your rights in their hands.

They can strip you of those rights, any time, anywhere.
 They can physically strip you any time; they can deny you everything.
 They can beat you to unconsciousness on a whim; evidence and reason can be and is manufactured,
 And that is a daily occurrence in prison.

Then there is the hostility of 1,000 men or more living in a confined space,
 Who are angry for being there,
 Who are resentful for being there,
 Who grew up in abusive homes,
 Who grew up with families and role models that failed them,
 Failed to teach them right from wrong.

And then you have the indigenous prisoner who more than likely was
 Arrested because they were native,
 Charged because they were native,
 And/or grew up in abusive homes because their parents and grandparents survived residential school,

Who became, because of that, role models without any idea of how to be a positive role model,
 Who instead found themselves outsiders in their own homes,
 Their own communities,
 Because they spoke white,
 Because they only thought white,
 Because that's what was beaten into them.
 And those beatings taught them to beat their children in order to teach those children
 How to be healthy-minded, loving people.

And so the genocidal cycle of how to kill off the native people
 Was reincarnated whole, as prison
 And generations of indigenous people have found themselves
 Growing up in youth prisons,
 Graduating to adult prison,
 Where they are surrounded by non-indigenous jailers.
 Where they are cut off from culture, from people,
 Where everyone around them that they are forced to live with are resentful,
 Angry, frustrated, confused, full of bitterness and rage, and hatred,
 And
 With no access to adequate mental health resources,
 With outdated programming designed by social workers that have never been to prison,
 Social workers who had angry citizens in mind when they designed those breaking barriers programs,
 Those cognitive skills, anger management and a myriad of programming just like those,
 Because in prison you do have time to count backwards from 20 in a hostile situation to deal with your anger, your emotions—
 No, actually, you don't.
 Because in prison the situations covered in those programs really do apply to prison reality—
 Again, no, they don't.
 And if you're native in the Prairies or anywhere else in Canada,
 You find yourself at the end of the line waiting for those mental health services,
 And you have to wait so very long to gain access,
 Access that non-indigenous prisoners have from the beginning.

● (0905)

I'm a bit frustrated with knowing all this for having lived it.
I'm no longer bitter about it, though.
I'm no longer seething about it.

I got out on my own terms, and I had some very vital help,
Not from CSC; no, Correctional Services Canada had very little to do with my getting out,
With my becoming the person I am now.
Instead I did all of that with a lot help from my friends out here,
Who guided me, who taught me how to be human.
I also wasn't one of those indigenous people that shouldn't have been arrested.
No, I am guilty of my crime and I live with that and will always hold that close to me.

It gives me strength when life out here gets hard and depressing for it can be so much so,
Guilt and the need to do better, to be better, to be more than just a survivor.

In getting out I learned some things about the system,
About how to succeed out here.

I learned that you see the world as you saw it when you last saw it.
If you went in when you were 18,
Then you see the world again through the memory of your 18-year-old eyes,
And you see it through the mind of the 35-year-old getting out,
And somehow those two perceptions need to harmonize and find their balance.

No one talks about that,
Because no one knows about it.

I learned that I had PTSD,
And so does everyone else, to some degree or another, when they get out.
It's from always being on edge, always on guard, always waiting for something to happen.

No one talks about that,
Because no one knows about it.

There once was a system in place for lifers, those convicted of murder, for when they were released.

LifeLine it was called and needs to be once more.
LifeLine provided employment for about a hundred or so lifers on parole.
Their job: to help lifers reintegrate back into society.

Lifers are uniquely qualified to aid other lifers in getting out of prison,
Because they know exactly what those being released are going through,
What the new parolee will go through.

It was a far more useful program for rehabilitation and reintegration than anything else.

And what of lifers?

Why should they be given such a chance at employment?

Why should they be given such positions of trust?

Why should they have such authority and sometimes autonomy?

Because unlike all other convicts, only lifers have to go through years of psychological testing,

Years of proving time and time again that they have changed,
Years of reports and assessments from every aspect of their prison life,
Before they are even given a chance to begin reintegration.

They have to take the programs.

They have to pass them too.

They have to be model prisoners.

They have to be role models.

They have to prove again and again in every situation that they will not commit a crime again.

Short-timers don't have to do anything and they will just get out.

Also, if you're indigenous as a short-timer, it still doesn't matter if you take the programming,

You're still going to remain inside prison until your stat.

Only lifers have to prove over time that they have truly changed.

And change is what it's about.

So let's pretend for a moment that programs work and are of real value for being relevant.

If that were the case,

The system will need many more people qualified to run them,
Truly qualified to run them.

Those programs need to be created for prisoners,
To address prison-related situations.

And for indigenous prisoners, that means making them culturally appropriate.
I don't mean just slapping feathers and medicine wheels throughout the workbooks;

I mean actually culturally appropriate in a societal context:
Inuit programming for Inuits, Métis for Métis, first nations for first nations,
And taught by their people,

Not just by indigenous program facilitators either,
With our medicine people along with those indigenous facilitators,
With our elders, be those elders Métis, Inuit or first nations.
There is power in the voice and the person that teaches the way
These programs need to be offered to all indigenous prisoners from the get-go.
Nothing is gained by waiting.

Indigenous lifer's need to be taking part in an indigenous lifeline program:
Métis for Métis, Inuit for Inuit and first nations for first nations.
And the Elders need to be involved in these programs.
The actual communities need to be involved in these programs.

If you hold a program for indigenous prisoners about healthy living and healthy relationships,

Then you need to have those relationships take part.
Wives and husbands, boyfriends and girlfriends, teens and children take part,
Because this all begins where it all began—with the children, with the child the prisoner was.

If you create a healing lodge for indigenous prisoners, then you need to let the community run it:

Indigenous programming for indigenous people by indigenous people,
And provide the community with the training to do so properly, efficiently, effectively.

● (0910)

Elders need to be community-based elders.

That means a community of indigenous people recognize the person to be an elder,

Which means CSC needs to absolutely end the practice of creating Elders themselves.

You have no right to do so.

CSC has no right to do so.

That is spiritual appropriation and a form of gas-lighting abuse.

The community will tell you who is an elder—the community. Indigenous society is built this way.

Indigenous philosophy is built this way.

Nothing we do, have done, will ever do is without the community,
Without the relationships we have in our circles of life,

Because we are all connected, because of this land,

Because we are all related, in spirit.

The Chair: Thank you, Mr. Freeland.

Senator Pate.

Hon. Kim Pate (Senator):

Thank you. I'll take a minute to let all that sink in.

I want to apologize. As you may know, I have just come from the endodontist and have had a root canal, so I'll try not to drool all over my papers and to be as articulate as possible.

I want to start by acknowledging that we are on the unceded territory of the Algonquin people.

I've spent the better part of the last four decades going into, but most importantly, unlike Mr. Freeland, being able to freely walk out of prisons, first for young people, then for men, and for the last 25 or 26 years, for women. The impact of colonization on indigenous peoples in this country is painfully obvious. I think Mr. Freeland has very succinctly expressed the whole complexity of that, so I won't try to in any way reframe that.

I'd like to talk a bit about what is possible with the current legislation and what's possible for your committee as well as the committees in the Senate that are looking at this issue. It's important to know that the Corrections and Conditional Release Act, when it was introduced, was part of a human rights legislative scheme. It was seen as human rights legislation, a primary component and objective of which—if you go back and read *Hansard* from this place and also the other place—was to de-incarcerate in particular indigenous people, but more generally to reduce the numbers of people in prison. This was started with the Daubney report and resulted in the CCRA being developed as legislation that was aimed from the get-go, from section 4 right through, at getting people out.

I want to talk about a few of the sections that have been not just underutilized but developed along policy lines by the Correctional Service of Canada in ways that absolutely restrict the legislative intent of those provisions.

In particular, I want to talk about section 29, which allows for the transfer of people out of prisons into health and other facilities, particularly those who have physical health issues. This could also apply, and has been applied, to those with mental health issues. There are exchange-of-services agreements between the Correctional Service of Canada and all of the provinces and territories. Primarily though, these are around emergent physical health types of care. There need to be agreements in place for mental health care.

The first thing you'll hear back from Corrections is that they've tried to do that but that there are inadequate services in the community. That's partially true and partially not true.

I have been in discussion with some of the same health services that the Correctional Service of Canada has been in touch with, and I'm told that the stall is on the federal side. You will hear from the Correctional Service of Canada that the problem is on the provincial and territorial side.

I don't pretend to tell you exactly where the problem lies. I do know that with an investment of the resources that are currently being used to jail people, those resources could be in place in provincial and territorial settings to provide mental health services, which I dare say would benefit not just those who are in prison right now but also those who might face prison, or the community as a whole.

In addition, there is section 76, which requires Corrections to actually develop from the day someone enters prison—and I'll just underscore here what the Auditor General said in chapter 5 of the most recent report released this week. They're supposed to be working on developing community release plans so that everything about what's happening with the individual in prison is designed to assist them to ultimately integrate into the community in a way that's safe for the community, for themselves, and for others.

Section 77 requires that the Correctional Service of Canada consult with and involve women's groups and those who have expertise. This was because of the start of the influx of women into the system at the time that the CCRA was coming into effect, something which, as I'm sure Ms. Gentile has already covered, continues to this day. In fact, it's the women, particularly indigenous women and women with mental health issues, and if they all intersect, they are the fastest-growing prison population. Section 77 hasn't been fully implemented.

Section 80 requires the same for indigenous communities. There is supposed to be consultation and involvement of indigenous communities.

Then we have sections 81 and 84, which I think you've already heard a bit about. Section 81 allows for individuals to serve their sentences in the community. Section 84 allows for individuals, particularly indigenous prisoners, to be conditionally released into the community.

● (0915)

If you look at those policies, you will see that, in fact, they have been severely restricted from what the legislation allows. The policies will indicate that only individuals at minimum security... You heard from Claire Carefoot, who runs Buffalo Sage, earlier this week, I believe. She would talk about the fact that we need to see more of those institutions. I would encourage you to look at the legislation and what the legislators intended and recognize that part of the reason we haven't seen full implementation of those provisions, in my view, is that over the last couple of decades—it's 25 years since the legislation was introduced—very few indigenous communities have even known about those provisions, and if they did, they were told that they had to build institutions in order to implement them.

That is not accurate if you look at the legislation. It is accurate if you look at the policy decisions. In fact, anybody, at any level, including Mr. Freeland when he was in custody, could have been accepted into their community if their community applied to the Minister of Public Safety and requested to have a section 81 agreement. An agreement could be built and resources developed around the needs that Mr. Freeland himself, as he has very ably articulated, would have desired to participate in. That is not the way it's being characterized to indigenous communities and it's not the way the policy has been developed.

What Ms. Carefoot didn't tell you is when they first opened only the second healing lodge for women in the country, initially no indigenous women were qualified to go there. None of them had low enough security. None of them had access to the types of programs. In fact, they had to be reclassified in order to get indigenous women there. The corrections policies at various levels interfered with a very good intent to open one new facility, but then not have any women eligible to go there.

I commend to you the sections of the Auditor General's report that talk about the fact that from day one the classification system was problematic, and the manner in which individuals were able to access programs. We know from the most recent correctional investigator's report that more than half of the women who are classified as maximum security are indigenous women.

That is all part of the same trajectory. As Mr. Freeland has articulated, part of that stems from the static factors that exist in most indigenous people's lives. Remember, it was only in 1990 that Mr. Justice Cawsey in Alberta did a review of the number of men—he didn't look at women—who had been in the criminal justice system, and found that 90% of the indigenous men who reached the age of 30 had criminal records. We're talking about vast overrepresentation.

The other issues that are identified are a lack of adequate grievance processes and complaint processes, a lack of access to justice, period, and lack of oversight. In terms of security classifications, in 2004 and 2005, the Correctional Service of Canada actually hired someone to look at the classification scheme for women in particular. They hired a woman named Dr. Moira Law. When she came back a year later with a recommendation to start all women prisoners at minimum security, which she determined after she had interviewed staff, prisoners, and outside individuals, including the correctional investigator, it was never implemented. Yet, in the response to the Auditor General's report, the Correctional Service of Canada says they will now be undertaking a review. They have excellent research at their hands that they have never completely implemented.

As I know my time is near a close, finally, I would like to propose that this place and this committee, or presumably this committee, and the Senate committee jointly conduct oversight reviews at least on an annual basis. The correctional investigator reports to the Minister of Public Safety and the report is then tabled in Parliament. We need judicial oversight, but in the interim, in order to ensure that the legislative mechanisms and intent are both adhered to and implemented, I would propose that we look at a mechanism whereby all parties and a cross-House and cross-chamber committee could actually look at that kind of oversight on an annual basis.

● (0920)

I look forward to your questions.

The Chair: Thank you, Senator Pate.

Madam Damoff, you have seven minutes.

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

I want to thank all three witnesses for being here today.

Elizabeth Fry Societies, I just want to acknowledge and thank you for the work you've done for decades with women in corrections. You don't get thanked enough for all the work you do. You really do make a difference in women's lives and are very seldom acknowledged for that, so thank you.

Mr. Freeland, thank you for sharing your story. I could tell how difficult it was for you to share that with us. Thank you.

Senator Pate, I know you've been a tireless advocate on this issue since long before you were in the Senate.

I guess what we're trying to do here is come up with some solutions. Senator Pate, you've given us a few.

One of you, and I think it was you, Ms. Gentile, mentioned something about elders being on contract. I wonder if you could expand on that. If that's not the system that does work, what should we be doing in terms of having elders working in corrections?

Ms. Savannah Gentile: Sitting beside Neal here, I really feel that's a question which he's better placed to answer.

Ms. Pam Damoff: Sure.

Ms. Savannah Gentile: Go ahead, if you feel so inclined, Neal.

Mr. Neal Freeland: Elders in prison started out with actual elders from the community being paid by CSC to come in and be the elder for convicts, both men and women. I think around the early 2000s that policy changed, or that had changed internally within CSC, and elders were no longer approached by CSC. Instead these roles were advertised as jobs. If you're a native person, any native person, any age, you could be hired by CSC and be called an elder and get a paycheque and be the elder.

That's not how indigenous people, Métis, Inuit, and first nations, pick an elder or recognize an elder. Elders are community members who know the teachings, know the medicines, know the stories, know the language, more often than not, and have years, if not decades, of experience within the community as a spiritual adviser, a medicine healer, maybe a pipe carrier, a sweat lodge runner—

● (0925)

Ms. Pam Damoff: Sorry, had you finished?

Mr. Neal Freeland: Pretty much.

Ms. Pam Damoff: One of the things that our government did was invest a significant amount of money in the last budget into working with communities, with community development officers. I think those communities have to include both urban and on-reserve settings. Not everyone is going to return to their reserves. They may have been gone from the reserves for quite some time.

I'm wondering if you have any thoughts on the impact of those investments that we're making and if there's more needed.

Go ahead, Senator Pate.

Hon. Kim Pate: On Friday, I was in the Fraser Valley Institution for Women to meet with a number of women serving life sentences and the elders. There was a gathering.

The elders reminded us that there are three main components that everybody needs to get out and to be successful. One is a community of support. I think that's true. We all need a community of support. Another is having something to do that is meaningful, and hopefully it's something that you can also get paid for; if you don't get paid for it, then you need some income. Another component is safe, stable housing.

That was one piece. A number of the elders.... In fact, the first elders going into the prisons when I was working in the prisons weren't paid. They came from communities because their community members were in prison, and so effective were the interventions that in fact, as Neal said, Corrections saw the benefit for indigenous prisoners in particular, but also for other prisoners. Often, the brotherhood and sisterhood would welcome others.

Even then, those elders said that what they really needed was to be able to bring people out, back to their communities. I recently had some discussions with some communities who said that section 81 and section 84 agreements may work best if we can also take people from other communities as a bridge to them going back to their own communities. I would be interested in Neal's perspective on this.

The example used was one community where someone was in for a life sentence for being involved in the death of another member of the community. The community felt that they wanted to work with that person, but they weren't ready for them to be right back in the community. They were negotiating with another community about whether the person could be paroled—it was actually an urban community with indigenous support from the friendship centre—and then have a transition.

It made me think that we haven't thought through all of the options and opportunities for how to do that, as Mr. Freeland has said, but part of the problem is coming from corrections, from the prisons out, and not from the community in—

Ms. Pam Damoff: We've heard that from the parole officers as well. Corrections is not going into the communities to try to work with people to have them come and work in....

I have a couple of quick questions. We heard that there should be a deputy commissioner for aboriginal offenders. We heard that the corrections investigators have been asking for that for a decade. Do you have a yes or no on that one?

Hon. Kim Pate: It's hard for me to say yes or no. I would say that if we had a choice between that or implementing the TRC's call to action number 30, I would go with number 30, which is to start the decarceration strategies.

Ms. Pam Damoff: Okay.

Hon. Kim Pate: If it's required to have a deputy commissioner to do that, fine. I don't think it requires that, though.

Ms. Pam Damoff: Are there any other thoughts in 30 seconds?

Ms. Savannah Gentile: I agree.

The Chair: Thank you.

Mr. Paul-Hus.

[*Translation*]

Mr. Pierre Paul-Hus (Charlesbourg—Haute-Saint-Charles, CPC): Thank you, Mr. Chair.

I'd like to thank the witnesses for their participation.

It's quite a complex issue. We've had several meetings on the subject so far. The committee's first objective is to identify the conditions in which indigenous people are incarcerated and determine whether the indigenous population is overrepresented in comparison with other groups.

At the end of the day, crime is the problem that keeps coming up. A person is sent to prison because they have committed a crime.

As someone who isn't an expert in indigenous matters, I have a question. Do indigenous communities recognize the Criminal Code of Canada?

Ms. Pate, could you answer that question?

• (0930)

Hon. Kim Pate: Thank you for the question. I'm going to answer in English, if you don't mind.

[*English*]

Absolutely, the Criminal Code is recognized, but law is a theory and who is determined to be criminal is largely dependent on who has the power to do so. The more someone is available and known to the state, the more they are likely to be also criminalized.

When I used to teach at the law school, I would talk about the fact that we have a Charter of Rights and Freedoms that guarantees equality, but never really delivers on that substantive equality. Then we have a Criminal Code that is said to apply equally. There's an old Anatole France quote—I can't remember it exactly—that neither the rich nor the poor are permitted to sleep under bridges or steal food. I think that epitomizes the issues we're talking about and why I mentioned the truth and reconciliation calls to action and the need for substantive equality. It's much easier for certain people, if they have mental health issues, or if they sometimes have good reason not to trust police when they haven't been protected.... We know from the missing and murdered indigenous women inquiry—

[*Translation*]

Mr. Pierre Paul-Hus: The fact remains that a crime is a crime, whether it is committed by an indigenous, white, or Asian person. When a court rules—

[*English*]

Hon. Kim Pate: But not all criminal offences are prosecuted. Not all criminal offences are reported, prosecuted, or people are criminalized—

[*Translation*]

Mr. Pierre Paul-Hus: What I mean is that, once a charge is laid against an indigenous person, they are sent to prison. It's a complex issue. Ms. Gentile spoke of the colonial structure. My understanding from the witnesses' remarks is that the entire correctional system is not suited to indigenous communities, who do not accept or recognize it. I am wondering what we can do about that.

We are saying that we want indigenous people to be treated differently. What can we do? Had we not had a colonial system and had there never been any British or French colonizers, how would indigenous people handle criminals in their communities? We are chasing our tails, always ending up at the same place. Had the colonial powers never come to this land some 400 years ago, how would indigenous communities deal with this issue?

[English]

Hon. Kim Pate: One of the things I think you've implicitly suggested yourself is that we need to be looking at other measures as well. As we know, different provinces and territories are looking at things like guaranteed livable incomes. There are many people in prison because they're poor, and they're trying to negotiate poverty. There are many people in prison who are reacting to violence perpetrated against them. There are many people in prison who are self-represented and can't afford lawyers. There are many people in prison who have not been protected and have essentially been deputized to protect themselves.

[Translation]

Mr. Pierre Paul-Hus: I agree with you, Senator.

The Correctional Service of Canada has work to do, but when it comes to everything that revolves around the correctional system, in other words the before and after, we'd like to know whether the Correctional Service of Canada can take a different approach. The government can invest millions of dollars, but that may not address the problem at its source, be it before the person enters the correctional system or upon leaving it.

The purpose of our study is to determine whether we can do other things, even though a number of measures are being taken to help indigenous people.

[English]

Hon. Kim Pate: Absolutely.

The parliamentary budget officer in 2010 said it cost \$348,000 to keep a woman in minimum or medium security prisons in this country. If that money were being invested in different ways in the community, absolutely, we could see very different things.

I think the brother of Kinew James, the woman who died in federal custody in 2015, put it way more succinctly than I could. She was an indigenous woman who died of a heart attack, in part because she had mental health issues, and the presumption was that she was just trying to get attention when she was actually calling for help. She died of a heart attack. Her brother said there was no end of resources available to use more security on his sister, to put her in segregation, to put her in restraints, or to transfer her across the country, but when she wanted to take a university course or even a high school course, or when she wanted to do something to try to assist herself to get out and better herself, there was a whole, long, drawn-out policy and description of why that couldn't be done, or why it took so long. I think that's what we have to fundamentally change. These are policy decisions about how we decide to quickly spend money and not quickly spend money.

Part of the reason I think it hasn't been addressed, quite frankly, is it will require changes and involve investments that will cross the period of the electoral span. It can't happen between one election to

the next, so all parties, and all of us, have to invest in ensuring that we're doing some of the things recommended, whether by the Truth and Reconciliation Commission, the royal commission, the Auditor General, or the parliamentary budget officer. Otherwise, we'll continue to try to spend on the short responses that are inevitably going to be more security types of responses, not necessarily investing in people.

●(0935)

[Translation]

Mr. Pierre Paul-Hus: Thank you.

The Chair: Thank you, Mr. Paul-Hus.

Mr. Dubé, you may go ahead for seven minutes.

[English]

Mr. Matthew Dubé (Beloeil—Chambly, NDP): Thank you very much, Chair, and thank you all for being here.

I want to hear from any of you who wish to comment on this notion of how we select the type of institution in which someone is going to be placed—medium, minimum, or maximum security. The sense I've been getting since we've been hearing witnesses is that the process doesn't work and that's why we're seeing overrepresentation of indigenous offenders in maximum security prisons. This affects the programs that are offered and their availability. A comment was made about how quickly someone can access certain types of programming, when and where they're available, and to whom. I would like to hear your thoughts on that, what impact it has, and what we could do to fix it.

Hon. Kim Pate: You may know that before the Supreme Court of Canada now is a case about the entire classification scheme, which is really fundamental, as Mr. Freeland said, to who gets access to what programs and what security levels from the get-go. We know that in 2003 the Canadian Human Rights Commission found it to be discriminatory on the basis of sex, race, and disability. It disproportionately impacted women, those who are racialized, particularly indigenous prisoners, and those with disabling mental health issues. That was what led to the review by Moira Law, which was abandoned by Corrections.

We still have that process in place, and in fact, a man named Mr. Ewert has taken the Correctional Service of Canada to court. We're waiting for a Supreme Court of Canada decision now. The Elizabeth Fry Societies and the Native Women's Association of Canada, as well as a number of other groups intervened in that court case to draw attention to the fact that we need to fundamentally rethink how we classify people and how they get access to programs.

Most indigenous people, because of all the things that Mr. Freeland has already talked about, are more likely to be classified at a higher security level from the get-go on the basis of factors they can do nothing about. You can't change where you came from or what your family history is. You can't change those things. So you end up with a very narrow band of things that can be changed and that's what gets assessed. Then it's viewed through the eyes or ears or interpretation of people who are not necessarily well-skilled in that area. As we've seen from the most recent Auditor General report, 37% of security levels, even after they're done, are changed upwardly, particularly for women and indigenous women. They're increased. It's as if suddenly some person decides that, although the prisoner actually comes out as minimum security, they should really be medium. The arbitrariness of it is—

Mr. Matthew Dubé: I want to hear from the others on this point as well, but my understanding of that statistic is that those are often cases where there are mental health issues in play.

● (0940)

Hon. Kim Pate: That is correct. Almost all of them are housed in segregation. A women's prison is multi-level so you actually have a super-max inside there.

I would encourage this committee, if you haven't already decided to do so, to go to the prisons. As I'm sure all of you know, judges and parliamentarians have a right of access to the prisons. As Louise Arbour reminded many of us a year and a half ago, any of us who are making decisions about this, whether it's this legislation that you are looking at, or studies, shouldn't be making decisions...judges shouldn't be sending people to prison and parliamentarians shouldn't be making decisions about laws if they don't know where people are going. Visiting can't give all of it to you, but visiting and meeting with people like Mr. Freeland and others who are still inside can give you some insight. If you haven't already decided to do this, I encourage you to do it. If I can assist with that, I'd be happy to.

Mr. Matthew Dubé: My time is running short, but perhaps others want to speak to this point.

Ms. Savannah Gentile: I would like to invite any of you to coordinate with the Elizabeth Fry Societies. We have regional advocates across the country who go into the prisons regularly. One of the major impediments to understanding what is going on inside, when you visit as a parliamentarian or as anyone else, is the lack of trust. Fortunately, as regional advocates going in regularly, we have built up that trust over a number of years and women share more freely with us. We welcome any of those invitations and we'd be happy to coordinate that.

Hon. Kim Pate: I would say, similarly, invite the LifeLine folks, too, to join you.

Mr. Neal Freeland: There is no LifeLine anymore.

Hon. Kim Pate: No. Rick and...

Mr. Matthew Dubé: Sorry, pardon me for interrupting. If I may, I have a last question I want to ask with the time that's left.

Mr. Freeland, I think you commented on "lost generations" was the term you used, and graduating to adult prisons. I'm particularly concerned about that element, because it feels as if young offenders... We're talking, say, 18 to 35. I don't know what the official age bracket is.

Hon. Kim Pate: It's 12 to 18.

Mr. Matthew Dubé: For someone who's over 18 but still relatively young, you would say, in a federal penitentiary, should we have any specific programs tailored for those young people so that they're not coming out and becoming recidivists and returning, and then essentially perpetuating this cycle?

Mr. Neal Freeland: Native people actually were the ones who created that restorative justice. Colonial society adopted it and put it into the correctional system.

It's long been a belief of indigenous people that if youth are committing crimes against the community, the community should deal with it. They should be addressed by the community, and the healing would take place within the community. There is a wide variety of ways that native communities have done this.

Depending on the severity of the crime, it may have been something as simple as the individual working for the other family, providing for that family, and giving back to that family. Food, shelter, all that kind of stuff would be part of it.

For more serious things, people would be put in exile for a short time. They would be looked after by the community, but they would be living outside of the community, learning how to take care of themselves again. They would be talking with the elders to learn how to reintegrate their spiritual beliefs before coming back to the community.

The Odawa Native Friendship Centre has a form of restorative justice program for adults who end up in jail. It's the community justice program, actually. What this means is that instead of serving time, before they get sentenced, they take the community justice program. They're seen by a circle of elders and community members who decide how to best handle the situation, and that person does what is recommended. Then their sentence is commuted or quashed altogether.

● (0945)

The Chair: Thank you, Mr. Freeland.

Ms. Dabrusin, you have seven minutes.

Ms. Julie Dabrusin (Toronto—Danforth, Lib.): Thank you, to all of you. It's been really helpful to hear from all of you about your experiences and your knowledge.

I have a bunch of questions.

I want to start with you, Senator Pate, about something you raised.

You talked about oversight and developing a parliamentary Senate committee oversight system. I have a series of questions about that. The first is, what would the ultimate oversight system look like? You said you would prefer that it not be a parliamentary Senate, that it would be judicial. First of all, what would that look like?

Hon. Kim Pate: It's not an original thought, I have to say. Louise Arbour came up with it after she looked at what happened at the Prison for Women in 1994, after a series of incidents resulted in her conducting an inquiry. She recommended that in situations where the treatment of a prisoner amounts to the mismanagement of a sentence, where basically a person ends up in segregation, accumulating more sentences, or being mistreated in the ways that Mr. Freeland has described, in fact that is not what the judge contemplated when he or she sentenced that person to prison. So wherever those kinds of allegations are made, there should be a mechanism that allows for individuals to go back to court to have their sentence reconsidered. Particularly where someone spent.... She was looking at a case where women had spent more than a year in segregation, for instance, and they had been stripped, shackled, and all the rest.

As to that kind of judicial oversight, in my view, I would support what Louise Arbour recommended. That would mean that a judge would also have the authority to reduce a sentence or to end a sentence and to recognize that the purpose of the sentence was not to continually punish someone. That's one. In terms of what I was thinking of, given that that has not been implemented to date, if this committee wants to recommend it, I think there would be at least some support in the Senate.

One other measure would be to have the kind of accountability where you could do some visits and actually see some of what happens and have a body responsible for routinely calling to account, not just through the Auditor General and the correctional investigator, but on all of these measures, whether it's security classifications, whether there's a robust grievance system, programming, releasing, or whether people are getting out at their dates.

Also discussed during the inquiry were things like people being rewarded for the positive things they do. A greater release rate for a warden would be a positive; greater access to programs, work releases, conditional releases, section 81 agreement, and section 84 agreements would be mechanisms whereby you register someone's success as a correctional officer or as a warden. I think the opposite is true. We have created a system that has become more and more risk averse. I say "we" because it's a collective issue. It has become more and more repressive. If you look at even the model that was supposed to be in place for the prisons for women, you'll see they were supposed to be community based. Initially they had very little program space because the presumption was that people would be going into the community for programs, and community groups would only come in and work with those individuals who could not enter the community because of their sentence.

For instance, if you went to Truro, you'd see it was one of the first ones built. The gymnasium is right at the front door because the presumption was that community members would be coming in and participating in events. That has virtually never happened. But this committee could go and meet there and hold a public meeting, for instance, because it has the gymnasium built in that way. All of the

rest of them now are behind razor wire and eye-in-the-sky cameras and security devices, but that was not how it was intended.

Many of us recognize that part of the reason enhanced security happened was that, as the Arbour commission was happening they were moving people into those prisons when they weren't ready, and people did take off. They were all found. They were all returned. Some of them turned themselves in. Some just went home. There wasn't an increased risk to society, but that became a rationale for a continuous increase in security.

Ms. Julie Dabrusin: Thank you.

I now actually have a paper version, rather than having to refer to my phone all the time for the Truth and Reconciliation Commission calls to action. One of them I wanted to refer to was call to action number 36.

Mr. Freeland, it seems to touch a bit upon something you mentioned. Call to action number 36 says:

We call upon the federal, provincial, and territorial governments to work with Aboriginal communities to provide culturally relevant services to inmates on issues such as substance abuse, family and domestic violence, and overcoming the experience of having been sexually abused.

There's a bit of a dichotomy. We have two issues. One is less focus on programming and more on decarceration, and I take that to heart. As long as we're talking about the programming piece as well, you had mentioned about bringing community in to be part of the programming, if I understand correctly. I wonder if you could talk a bit more about that.

● (0950)

Mr. Neal Freeland: Any program that deals with an indigenous offender right now, if it was breaking barriers or cognitive skills, it's just with that inmate, that convict. Plus, you're the ones in the program. I think if you want to change the individual, then you're going to need the community. The community raises individuals. In our community, that's the way it's done. I think any time you bring in native elders, the indigenous people listen, whether they're male or female. If you involve their families, their mothers, their fathers, their brothers and sisters, you'll create a family unit that operates on the same level. If they've all taken breaking barriers together, the mother and the father, the brother and sister, and the children know what that means, so every step of the way that individual has a support system already in place for them out there that knows what they've been through, what they're expected to do, what they've learned, and has the tools to deal with that individual just as that individual does, so the inmate has the tools and his family has the tools as well.

The Chair: Thank you, Ms. Dabrusin, and thank you, Mr. Freeland.

Mr. Motz.

Mr. Glen Motz (Medicine Hat—Cardston—Warner, CPC): Thank you, Chair.

Thank you to our three witnesses for being here today.

I want to make a statement up front, and then I have some specific questions related to some existing programs.

Ms. Gentile, you stated that the focus should be on getting indigenous women out of prison, and I would suggest that our focus should be on working to ensure women and all indigenous people don't end up in conflict with the justice system in the first place.

Having said that, we heard earlier testimony from a witness who suggested that their band receives more than enough funding from the federal government. Their conflict is that this money doesn't trickle down from chief and council to programs on reserve. Programs and opportunities do exist.

From all of your experiences, is the aboriginal head start in urban and northern communities program an effective program?

Mr. Neal Freeland: My understanding is that the aboriginal head start deals with preschoolers. Am I correct?

Mr. Glen Motz: Yes. It mostly focuses on youth to get them accustomed to their culture.

Mr. Neal Freeland: I don't have any experience with that, sorry.

Mr. Glen Motz: That's all right.

Ms. Savannah Gentile: If I could just comment on your earlier statement about funding, on-reserve child welfare receives, on average, 38% less funding than elsewhere, so funding discrepancies exist as well that need to be addressed.

Mr. Glen Motz: I won't get into a debate on that particular issue. My constituency has the largest reserve in Canada, and I spend a lot of time with them. They've become great friends of mine. I hear of a lot of things that work and that definitely do not work. One of the things they make very clear—not chief and council, but many people who have lived through the things we've heard about in this committee—is that we need the programming that can be available; however, the federal money that comes to that reserve for those programs is diverted elsewhere.

What about the aboriginal skills and employment training strategy? That program has been around for a while. Is it working? We've heard repeatedly from witnesses that... My focus has always been on once they're in conflict with the justice system, absolutely there appears to be some systemic prejudice, and we need to work on that. We understand that, but my focus has always been on how we prevent people from being in conflict to begin with.

We've heard repeatedly that there are poverty issues, education issues, a lot of issues. The aboriginal skills and employment training strategy has been in place for some time, and I'm just wondering, from your experience, whether it's effective.

• (0955)

Hon. Kim Pate: It depends on where and when, and by whom, absolutely. Those are—

Mr. Glen Motz: When you say “by whom”, do you mean by who delivers it?

Hon. Kim Pate: Yes, and who's involved with it.

In communities where, in particular, to go back to Mr. Freeland's point, the elders have been consulted and have been really part of driving the initiatives within communities, whether it's justice initiatives, early childhood initiatives, or dry community initiatives, in my experience those are the ones that have been most effective.

Earlier this year I was in New Zealand meeting with some folks. One of the things that a number of Maori communities have done, which I know that some of the indigenous communities are looking at here, is taking resources that have previously been used for criminal justice issues and redirecting them to things such as early childhood education support services. They're seeing a huge difference in the rates of young people who are engaged, or more to the point, not engaged in criminal justice and are creating hope.

That was the same message we heard from young people in this country from up north when Senator Sinclair, Senator Boniface, and I met with some young people a few weeks ago. They want those kinds of investments made with their elders and with their communities for them to be able to have greater opportunities.

Mr. Dubé raised a question earlier about young people in the system. One of the areas that you need to be aware of and part of the reason we have a jettisoning of young people into the adult system is that we changed the youth system back in 1984 and actually stopped allowing young people to lose their records when they finish their time as youth. That might sound like a minor thing to some people or it might sound like a big thing, but it was a major issue because many young people, as we know, age out in terms of behaviour. Young people would be able to start as a first time.... They would get a new option. Most of those young people, as you would know from your former career, then would not continue on.

Therefore, we've also created systems that actually provide almost trajectories into the adult criminal justice system, and that's part of it. Those who already start with the greatest degree of marginalization are more likely to end up in the system as well.

The Chair: Thank you, Mr. Motz.

This panel is particularly challenging to the clock.

Mr. Fragiskatos.

Mr. Peter Fragiskatos (London North Centre, Lib.): Thank you very much, Mr. Chair, and thanks to all of you for being here today.

I want to ask about culturally appropriate approaches here. I think it was Mr. Freeland who used that phrase. I want to use that as a way of getting to the issue of Gladue reports, their utility and their potential, to what extent you think they're effective in addressing, frankly, some of the injustices you've seen. That's open to whoever wishes to take the question.

Mr. Neal Freeland: From what I know of Gladue reports, I think a recent article said that about 80% of the time they're just ignored or they're not implemented by the courts. More often than not, Gladue reports are written not by somebody who's trained in Gladue writing. They're written by the same parole officers. Once a person is convicted of a crime, is already sentenced and in prison or in jail, a Gladue report is then written on them. It was my understanding that the Gladue report was meant to be written after they're arrested and before they get sentenced or before they have a trial. That needs to be implemented if they're going to be effective at all.

• (1000)

Mr. Peter Fragiskatos: Senator Pate.

Hon. Kim Pate: I've tried this everywhere and I'll try it again here. I'd like to see us not call them "Gladue reports" anymore. Jamie Gladue never got the benefit of this provision, and in fact, that provision was used to hide the racism and misogyny that was visited on her. But that's another story for another day.

Paragraph 718(2)(e) of the Criminal Code, which is what we're talking about, is where the genesis of the idea of the Gladue reports comes from. Paragraph 718(2)(e) was implemented for the same reason the CCRA was implemented. Part of it was a sentencing principle not just for indigenous people but particularly for indigenous people to try to reduce the number of people who were going to prison. Now it's being applied not just to judges who are sentencing. It's supposed to be looked at by police officers who are examining whether to charge someone. It's supposed to be looked at by parole officers who are determining what programs people should have access to and their release options. It's supposed to be looked at now by the entire system. But the provisions in the Criminal Code say that where individuals have had all of these strikes against them to start with, we should be looking at a capacity-building model, not a deficit model. Some very good Gladue reports will describe all kinds of things we should be doing differently, but essentially they list all the deficits that people have had in their lives and all the horrible things they've experienced without necessarily then prescribing the remedy of how we prevent them from ending up in the system at all, or further, and then how we get them out.

I think one of the things we should do is go back to paragraph 718(2)(e) and ask what the legislative intent was. It was designed to actually reduce the numbers and encourage us all to figure out how we build capacity, whether it's in classification schemes, security schemes, or sentencing, and focus on the deficits.

If we focus on a deficit model, we take something that is a need, like housing, or something like sexual abuse, and say that actually creates a risk. We translate it into a risk factor and then you get a prison sentence. Say, we take a capacity model. There are a few examples in this country where we've done it with young people and with women, and I'd like to see more examples of it done with men as well. We actually say that if the main issue is that you were sexually abused and responded to that by reacting, by having to essentially be deputized to protect yourself—so you started to use instrumental violence as well—and you really had no place to live, then what we should be looking at is how we build those supports around you. We shouldn't send you to prison for punishment for that, but build those supports around you, and then expect some individuals to work with you to model the type of behaviour we

want to see. It's much more labour-intensive, but it's way more productive in terms of lower overall human, social, and financial cost.

Mr. Peter Fragiskatos: Thank you very much.

The Chair: Thank you, Mr. Fragiskatos.

Mr. MacKenzie.

Mr. Dave MacKenzie (Oxford, CPC): Thank you to the members of the panel for being here today.

Mr. Freeland, I'm very interested in your life in the whole picture of society. One of things that we've heard, and something you've probably illustrated as well as anybody, is the role of the elders and what it really means to people from your community. You've indicated that part of the problem with the elders in the prison system is that the prison system chooses who the elders are and that goes against the grain, and I understand that. It certainly makes sense.

What could we hope for, and how could we enhance the elders being involved more in the community before young people get into conflicts with the law? Is there something bigger society can do to enhance that?

Mr. Neal Freeland: Stop taking native kids from native families. There are more native children in child and family services custody now than there was in the entire sixties scoop. Those children aren't going to access native elders at all.

• (1005)

Mr. Dave MacKenzie: It would be the family. That's what I'm wondering. How do we get the elders involved in the whole family picture before those children are removed and eliminate or at least minimize the need to remove them from provincial...?

Mr. Neal Freeland: The problem is that it's not that the children are removed when they're five years old or two years old; it's that they're removed when they're born. You're a native person and your child is removed from your home because you're native. Child and family services are more often than not waiting for your child to be born, and then it's taken.

Mr. Dave MacKenzie: But that's a provincial issue by and large, right?

Mr. Neal Freeland: It's a societal issue.

Mr. Dave MacKenzie: How do we fix that? How do we try to get the elders involved with the young people in the community, before babies are born even, if that's what the issue is?

Mr. Neal Freeland: You need to approach the elders in a good way. You need to ask them.... See, when I want an elder to help, I go with tobacco because that's the way it's done. If I want an elder to take part in Kim's family because she's going to have children, then I go with tobacco and I ask the elder to help. Not every family is going to do that every single time it has a child. There aren't elders for every single family. Our people just don't have the resources with the elders anymore because of residential schools, because of the sixties scoop, because of the ongoing taking of our children. There needs to be a way to promote the teachings, the language, and the medicines by society at large for the native people. I think....

Mr. Dave MacKenzie: I'd like to focus on Mr. Freeland because I think he has many of the answers that many of us would look for.

Do elders come forward? How do you know who an elder is?

Mr. Neal Freeland: Elders don't necessarily come forward in the traditional sense, like a Roman Catholic priest; an elder doesn't come forward and go to school to be an elder. There are some priests, obviously, who feel it inside themselves and know they're going to be a priest, so that's what they do with their lives. There are native people who know that they're going down that spiritual path, down that path of medicine people, so they work at it. Then there are others who just live their life that way, and they're recognized by the community as being compassionate, as being respectful, as living by the seven grandfather teachings, as living by the medicine wheel teachings, as living for the community and doing everything for the community. Then the community recognizes them and says, "You know what? We're going to come to you because you've always been there for us and you've always helped us."

An elder isn't necessarily somebody who sets out to be an elder. All the elders I know don't particularly like calling themselves elders because it's not a title. It's not a prestigious thing. It's a responsibility. It's a burden. It's something that you carry and that you live, because you have no real choice but to do that. That's what you are. That's what you've always been, and that's what you grow to become.

The Chair: Thank you, Mr. MacKenzie.

I appreciate that, Mr. Freeland.

Ms. Damoff.

Ms. Pam Damoff: How long do I have, Mr. Chair?

The Chair: You have five minutes.

Ms. Pam Damoff: Thank you.

Mr. Freeland, a couple of times you mentioned something about involving families. One of the things that I've heard when I've talked to parole officers is that an issue for many indigenous offenders when they're getting out is that they don't have that family structure. If it's a privileged white person who's gone to prison, when that person gets out, Uncle Fred gives them a job. They stay with their brother. They have a whole support system. An indigenous offender who gets out ends up in a homeless shelter in a major urban centre.

What do you do if you can't involve the family, whether it's because of generational trauma or whatever the reasons might be? If it's difficult for you to answer, I'm fine if someone else wants to respond.

• (1010)

Mr. Neal Freeland: I think you touched base on that: indigenous offenders are released to urban centres. If you take them from the reserve, if that's where they're coming from, if they're entering the criminal justice system from the reserve and they're not being released back to their home community, then they're not going to have their home community with them.

Ms. Pam Damoff: What if they've come from an urban centre? They've moved there to go to school or high school, stayed in the urban centre, and don't have a community to go back to. I think that's one of the things that Corrections was trying to deal with in terms of giving some money to these community development officers.

Senator Pate touched on finding ways to send offenders somewhere where they can learn the ways of their culture, and then perhaps integrate back into the community. It just seems like there's a vacuum there for offenders when they get out.

Mr. Neal Freeland: There can be. I'll speak about Ottawa, because that's where I came to. Ottawa has the Odawa Native Friendship Centre. The Métis Nation of Ontario is here. The ITK is here. Wabano Centre is here. They have mental health resources there. The Native Women's Association of Canada is here. The AFN is here. CAP is here. There are a lot of indigenous resources for offenders getting out here. Grassroots organizations such as Odawa have a lot of programming built around the community. It's for the community.

Ms. Pam Damoff: Would it make sense for Corrections to be working with those types of organizations to try to provide those supports when people are getting out of prison?

Mr. Neal Freeland: Yes.

Ms. Pam Damoff: Senator Pate, you mentioned something about rewarding wardens. One of the concerns I have in speaking to people in the system is that the programming—and we've heard testimony on this—used to be that, if you were a sex offender, you got this program. There were a number of programs, and in order to cut costs they were all lumped into one program.

The programs themselves may not be effective for people who are in the system, so rewarding someone to complete a program that isn't going to help them.... Mr. Freeland, I think you spoke to that as well, doing programming that isn't.... You touched on making sure that we have culturally appropriate programming. I wonder if you could expand on that. Also, I would give a caution that completing just any program isn't going to be effective.

Hon. Kim Pate: I would start by saying, first and foremost, that any connection you can make to the community from the beginning, the first day of a sentence.... If you can't prevent someone from ending up in prison, then starting the community connections from the first day is really important. That was the model that was outlined by the task force on federally sentenced women back in the late 1980s or early 1990s. It was outlined that way because it had merit. I think that too often we go to what look like broad-based cost savings, but, in fact, if we looked longer term than just a few years, we'd see they are massively costly in terms of human costs, social costs, and fiscal costs. I think that is what has happened with the programming within the Correctional Service of Canada and the focus on bringing everything inside.

As Mr. Freeland has said, there are many connections in communities. Really, one of the models that was examined when we were doing the Canadian Human Rights Commission review was an examination of someone who comes with this constellation of issues, whatever they may be, the resources attached to those issues, and the individual having some say in who they work with, whether it's an elder or a particular therapist.

Very few times has that happened, in my experience, but when it has, those have been the instances where everybody says, "This is amazing." I was just at a parole hearing on Friday where there were exactly those such responses. They said the responsiveness of this person to an outside therapist who came in was amazing. It was not amazing to those of us who have been around the system for a very long time; it was absolutely predictable.

We need to be continually looking outside, and if the person can't go outside for whatever reason, then bring the community in. But, yes, the cookie-cutter approach to these programs has been largely ineffective. It's not that they don't teach good skills, but they're living skills, life skills approaches that preferably would be taught.

I want to just—

●(1015)

The Chair: Before you do, we're well over Ms. Damoff's five minutes.

Mr. Dubé has the last three minutes, so you might very cleverly and skilfully respond to one of Mr. Dubé's—

Mr. Matthew Dubé: It won't be cleverly. It will just be flat out, if you want to complete the thought.

Hon. Kim Pate: Thank you.

To the earlier question about what we can be doing earlier when it's provincial and territorial jurisdiction, we have the ability to create national standards, which have largely been eviscerated over time. That's one thing.

Also, when we're talking about indigenous people, particularly those under the Indian Act, there are ways to attach resources. We spend a lot of money when we take people out of their homes. There are all kinds of resources in child welfare and foster systems, but virtually no money goes into their homes while those children are there to assist their families to deal with the issues that are facing them, whatever those issues are.

I would encourage that when you're looking at some of those long-term issues, we actually talk about how we keep those resources in the home so that families can bring those individuals in. It's horrendous, the number of people I've known and walked with over the years whose parents, in their home, were desperately trying to get supports for them, whether it was for learning disabilities or behavioural issues. Whatever it was, the minute they were put into foster care there was a whole phalanx of professionals apparently made available, not always in a positive way. The fact that those resources aren't made available in the home to start with is a travesty, quite frankly, and one of the things we should all work towards changing.

Mr. Matthew Dubé: Thank you.

The Chair: It falls to me to thank each of you for your testimony here this morning, particularly Mr. Freeland for the power of your lived experience. We seldom hear that in this setting. Thank you in particular for your contribution.

With that, ladies and gentleman, we will suspend and go in camera.

[Proceedings continue in camera]

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