

## *Fact Sheet: The Criminalization & Overincarceration of Indigenous Women*

Indigenous women make up more than 42% of the prison population in Canadian federal institutions designated for women,<sup>1</sup> and are the most rapidly increasing prison population in the country.<sup>2</sup> This sheet provides an overview of key facts and figures on the overincarceration of Indigenous women in federal prisons, as well as its interconnected causes, which include the over-policing and under-protection of Indigenous communities, systemic socioeconomic marginalization, and ongoing colonial policies and institutions. Finally, it concludes with the Canadian Association of Elizabeth Fry Societies' recommendations to address this pervasive issue.

### Ongoing colonial policies marginalize and disenfranchise Indigenous women, making them more vulnerable to violence and criminalization

- Many negative socioeconomic outcomes can be traced directly to colonial policies and have been identified in a recent study on Canadian prisons as a contributing cause of the overincarceration of Indigenous communities, particularly Indigenous women.<sup>3</sup>
- Indigenous communities are more likely to experience chronic unemployment compared to the rest of the Canadian population,<sup>4</sup> and are far more likely to live below the poverty line.<sup>5</sup> According to 2016 census data, around a quarter of Indigenous people in urban areas were living in poverty compared to 13% of non-Indigenous Canadians.<sup>6</sup> This is likely even more drastic in remote and isolated Indigenous communities.<sup>7</sup>
- Health Canada also highlights diabetes as a significant concern for Indigenous peoples because of “a lack of accessible services... and increasing prevalence of risk factors for a population already at risk.”<sup>8</sup> Similar concerns exist surrounding the disproportionate rates of tuberculosis.<sup>9</sup>
- Despite Indigenous housing being a fiduciary responsibility of the federal government, homes on reserves are and continue to be poorly built. Nearly one out of every four houses on reserves are in need of one or more major repairs.<sup>10</sup> Further, Indigenous Peoples are six times more likely than non-Indigenous people to live in a crowded dwelling. Based on 2016 census data, Statistics Canada found that close to one fifth of the Aboriginal population live in housing that is not suitable for the number of people who live there.<sup>11</sup> Indeed, an estimated additional 85,000 dwellings are needed on reserves to meet the current housing demand.<sup>12</sup>
- Indigenous communities on reserves also experience a chronic lack of access to clean drinking water, despite numerous promises from the Canadian federal government to resolve the issue. As of June 11, 2021, 51 long-term drinking water advisories remain in effect in Indigenous communities.<sup>13</sup>

### Indigenous women experience disproportionate violence, which is often linked to their criminalization

- Violence against Indigenous women is a human rights issue that is rooted in ongoing colonial policies.<sup>14</sup> The failure of the Canadian state to discharge its obligations to protect Indigenous women and girls allows the connection between their victimization and criminalization under the Canadian justice system to persist.<sup>15</sup>

- The rate of physical and sexual violence against Indigenous women is two and a half times higher than the rate against non-Indigenous women.<sup>16</sup>
- Indigenous women are more likely than non-Indigenous women to experience emotional, financial, physical, and/or sexual abuse by a spouse or partner.<sup>17</sup>
- Indigenous women are also more likely to experience serious victimization in the form of sexual and physical assault, and are five times more likely to die a violent death than non-Indigenous women and Indigenous men.<sup>18</sup>
- From 2005 to 2010, the Native Women's Association of Canada documented 582 cases of missing or murdered Indigenous women in Canada.<sup>19</sup> Due to racist and sexist stereotypes, their disappearances were frequently ignored by police.<sup>20</sup>
- In 2014, the RCMP reported that they had records of 1,181 cases of missing or murdered Indigenous women in Canada, 39% of which occurred since 2000.<sup>21</sup> Most of the missing women are under the age of 31 and one quarter of them are under the age of 15.<sup>22</sup>
- In 2015, the Office of the Correctional Investigator reported that: "close to 70% of federally sentenced women report histories of sexual abuse and 86% have been physically abused at some point in their life. Their life histories of trauma cannot easily be separated from their conflict with the law."<sup>23</sup> The Correctional Service of Canada (CSC) has acknowledged that "[c]ompared to the average Canadian, women offenders... are more likely to have a history of physical and/or sexual abuse".<sup>24</sup>

## Violence against Indigenous women and communities is perpetuated by state systems that over-police and under-protect them

- A 2007 report prepared for the Ipperwash Inquiry noted the damaging consequences of over- and under-policing on Indigenous communities:
 

*"Over-policing and under-policing are different sides of the same coin. Each feeds upon the other to perpetuate systemic discrimination and negative stereotypes regarding Aboriginal people."*<sup>25</sup>
- Indigenous women are more likely to experience police discrimination than both non-Indigenous women and Indigenous men.<sup>26</sup> Racial profiling and over-policing have been identified as principal causes of the criminalization of Indigenous people and minority groups in Canada.<sup>27</sup>
- Even according to CSC's own research, Indigenous people are returned to custody at much higher levels than the general population.<sup>28</sup>
- In addition to the over-policing of Indigenous communities, police failure to respond to and protect Indigenous women and girls from violence remains a pressing concern. Police often fail to take reports seriously, delay or mishandle investigations, and neglect to coordinate with other policing bodies when dealing with Indigenous victims.<sup>29</sup> Past failures often discourage women being abused from seeking police help, which exposes them to further violence.<sup>30</sup>
- In addition, many Indigenous women and girls experience verbal racist and sexist abuse, as well as physical and sexual violence at the hands of the police. As a result, the fear of retaliation means that many cases of violence against Indigenous women and girls goes unreported.<sup>31</sup>
- The National Inquiry into MMIW revealed Indigenous Peoples' frequent and justified lack of trust and confidence in the RCMP due to continued racism and sexism by many RCMP officers directed at Indigenous Peoples, high rates of missing and murdered Indigenous women, and a lack of resolve in holding perpetrators of violence against Indigenous women accountable.<sup>32</sup>

## The overincarceration of Indigenous women is a continuation of Canadian settler colonialism and genocide

- The National Inquiry on MMIW reported an ongoing “deliberate, often covert campaign of genocide against Indigenous women, girls, and 2SLGBTQIA people”.<sup>33</sup> The Truth and Reconciliation Commission of Canada (TRC) called the residential school system “a cultural genocide”,<sup>34</sup> a finding which has been underscored by recent discoveries of hundreds of unmarked graves of Indigenous children at sites of residential schools across the country.<sup>35</sup>
- Similarly, in addition to being a form of systemic discrimination within the Canadian criminal justice system, the ongoing overincarceration of Indigenous Peoples, and in particular, Indigenous women, is part of the colonial past and present of the Canadian state.<sup>36</sup>
- As a result of intergenerational trauma, approximately 48% of all children in state care are Indigenous, despite only making up 7% of Canadian children.<sup>37</sup> This situation is exacerbated by the fact that 64% of incarcerated Indigenous women are single mothers, creating a situation where the incarceration often results in Indigenous children being placed in another institutionalized colonial system.<sup>38</sup>
- Some of the colonial policies, which have directly created the conditions for overincarceration of Indigenous women include:
  - Legislated discrimination under the *Indian Act*;<sup>39</sup>
  - The genocidal violence experienced by Indigenous children in the residential school system up until the final decades of the 20<sup>th</sup> century, continuing a cycle of intergenerational trauma and abuse in Indigenous communities;<sup>40</sup>
  - Continued cultural genocide of Aboriginal peoples in the 1960s through the child welfare system, where children were removed from their homes and placed in non-Indigenous care without the consent or knowledge of their families, commonly known as the “60s Scoop”;<sup>41</sup>
  - The ongoing, forced separation of Indigenous children from their families that is now referred to as the “millennial scoop”;<sup>42</sup>
  - Adversarial land claims policies sanctioned by the courts which recurrently separate Indigenous communities from their land, sovereignty and communities.<sup>43</sup>
- Some scholars have located the Canadian prison system, alongside residential schools, reserves and *Indian Act* discrimination as examples of Canadian “*genocidal carcerality*” defined as the creation of “spaces enlisted towards the elimination of a targeted group, either for purposes of exterminating or transforming the group so that it no longer persists.”<sup>44</sup>
- While CSC and other government departments’ stated commitment to “tak(e) action to correct systemic disparities with respect to Indigenous people in Canada”<sup>45</sup> is an important move to stem the overincarceration of Indigenous women, solutions must be rooted in Indigenous self-determination and acknowledge the extent to which the penitentiary continues to be an essential feature of Canadian settler colonialism.<sup>46</sup>

## Many Indigenous women are criminalized for resisting colonial systems that marginalize them and their communities

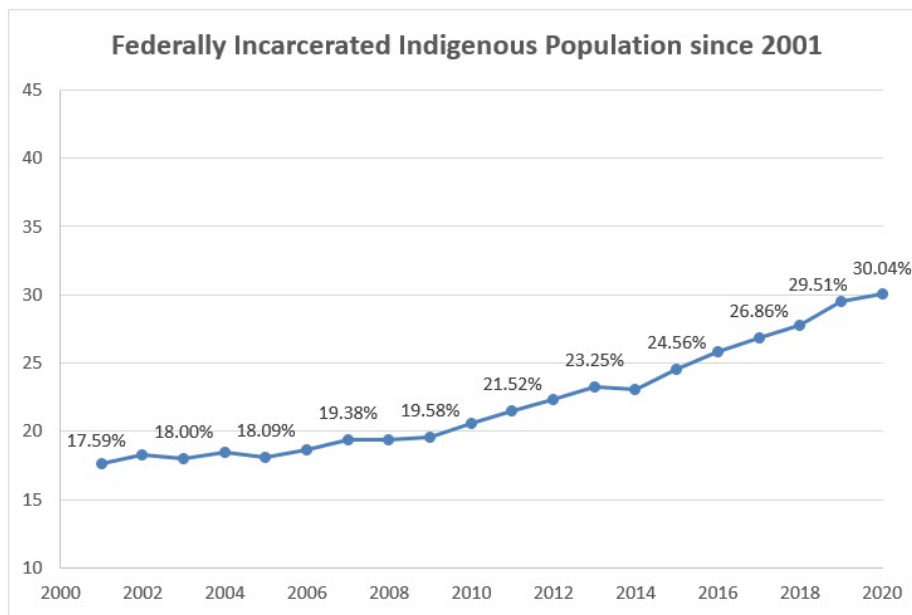
- Numerous recent examples exist of Canadian police forces and intelligence agencies arresting and targeting Indigenous land defenders and activists, predominantly Indigenous women, for resisting resource extraction projects on unceded territories:
  - In March of 2014, the BC Civil Liberties Association filed two complaints against the Canadian Security Intelligence Service (CSIS) and the RCMP, alleging they illegally monitored and spied on community groups and First Nations opposed to the Enbridge Northern Gateway Pipeline project. <sup>47</sup>

- On the BC's coast and interior, Indigenous people are regularly arrested for obstructing pipeline worksites on their unceded territories.<sup>48</sup> Recently, in February of 2020, the RCMP arrested two dozen land defenders of Wet'suwet'en nation at blockades protesting the Coastal GasLink pipeline project.<sup>49</sup>
- Across the country, in the fall of 2020, the Ontario Provincial Police arrested 33 land defenders during a months-long demonstration against a construction site on unceded Haudenosaunee territory along the Grand River.<sup>50</sup>
- These examples are part of a longer and ongoing history of the Canadian state criminalizing Indigenous resistance to land theft through the use of restrictive land claims policies, court-ordered injunctions and contempt of court proceedings.<sup>51</sup> They are also linked to the criminalization of Indigenous movements against colonialism across Turtle Island.<sup>52</sup>
- Further, Indigenous women are often the particular targets of state violence against Indigenous resistance. Following a series of arrests of land defenders and water protectors protesting the Trans Mountain pipeline, Mi'kmaw lawyer and academic Pam Palmater noted:

*"From the very, very beginning the Canadian state has tried to separate women from the land... The safety and health of women's bodies has always been tied to the land so closely that that's why the state has particularly targeted Indigenous women — to separate them from that because it helps disintegrate their nations."<sup>53</sup>*

### Indigenous women are vastly overrepresented in federal prisons designated for women

- In a 2020 Report, the Office of the Correctional Investigator confirmed that 30% of people who are federally incarcerated are Indigenous, despite making up only 5% of the Canadian population.<sup>54</sup>
- This number is increasing, resulting in what Correctional Investigator Dr. Zinger calls the "Indigenization" of Canadian prisons.<sup>55</sup> Since April 2010, the Indigenous inmate population has increased by 43.4%, while the non-Indigenous incarcerated population has declined over the same period by 13.7%.<sup>56</sup>



(Chart accessible at: <https://www.oci-bec.gc.ca/cnt/comm/press/press20200121-eng.aspx>)

- The overrepresentation of Indigenous women in federal institutions is even higher, accounting for 42% of people incarcerated in prisons designated for women.<sup>57</sup> This number is greater within some provincial jails, particularly in the prairie regions where Indigenous women account for upwards of 90% of the prison population.<sup>58</sup> This makes Indigenous women the most rapidly increasing prison population in Canada.<sup>59</sup>

## Indigenous women frequently experience discrimination in every aspect of the criminal justice system

- A recent study on the overrepresentation of Indigenous Peoples in Canadian prisons found that “Systemic discrimination can be seen in all phases of the criminal justice system: policing, courts, and corrections.”<sup>60</sup>
- The Canadian legal system can be experienced by Indigenous Peoples as a foreign and inappropriate means of addressing conflict in their communities.<sup>61</sup>
- Differences in Indigenous and non-Indigenous notions of justice can lead to a misunderstanding of the actions and reactions of Indigenous Peoples in the legal system. Police, lawyers, judges and juries often misunderstand their words, demeanour, and body language.<sup>62</sup>
- CSC’s Custody Rating Scale fails to identify, reflect or accommodate the needs, capacities, and circumstances of women and racialized groups. As a result, Indigenous women are given unnecessarily high security classifications that result in program ineligibility and reduced opportunity for successful release into the community.<sup>63</sup> In fact, first Nations, Inuit, and Métis women are routinely classified as higher security risks than non-Indigenous women in prison. Nearly 50% of women classified as maximum-security prisoners are Indigenous,<sup>64</sup> and Indigenous prisoners are disproportionately represented in segregation.<sup>65</sup>
- Indigenous women are also more likely than non-Indigenous women to be denied parole, to have served a longer portion of their sentence in custody once granted parole,<sup>66</sup> and to have their parole revoked for technical reasons.<sup>67</sup>
- Although a “healing lodge” was created by CSC in a stated attempt to address the unique needs of Indigenous women in prison, 90% of those for whom it was designed cannot access it because of discriminatory classification and admission criteria.<sup>68</sup> This exclusion can be seen as a form of double punishment, as Indigenous women in prison are being denied both their freedom and access to culture.<sup>69</sup>

## Despite being a widely recognized problem, Canadian governments have consistently failed to address the overincarceration of Indigenous women

- The problem of overincarceration of Indigenous people is well-documented in numerous studies, inquiries, academic articles, and court cases:
  - Since 1989, eleven Royal Commissions and Commissions of Inquiry have addressed the issue of how the justice system is failing Indigenous Peoples.<sup>70</sup>
  - In 1999, the Supreme Court of Canada in assessing statistics on the overincarceration of Indigenous Peoples stated that “[t]he figures are stark and reflect what may fairly be termed a crisis in the Canadian criminal justice system.”<sup>71</sup>
  - The Office of the Correctional Investigator has recurrently noted the problem of Indigenous overincarceration, alongside other issues facing Indigenous prisoners including disproportionate likelihood of mental health crises and consistently underutilized release options compared to non-Indigenous prisoners.<sup>72</sup>
  - In 2015, the TRC listed eighteen Calls to Action aimed specifically at addressing failings in the justice system, as well as another three Calls to Action aimed at equity for Indigenous people in the legal system.<sup>73</sup>
  - Recently, in 2020, The National Inquiry on Missing and Murdered Indigenous Women and Girls (National Inquiry on MMIW) issued the following Call to Action:

*“We call upon federal, provincial and territorial governments to thoroughly evaluate the impact of mandatory minimum sentences as it relates to the sentencing and over-incarceration of Indigenous women, girls, and 2SLGBTQIA people and to take appropriate action to address their over-incarceration.”<sup>74</sup>*

- Despite the mounting evidence and research documenting the problem, overincarceration of Indigenous communities and Indigenous women in particular continues to increase. As Correctional Investigator Dr. Zinger noted in 2020:

*“On this trajectory, the pace is now set for Indigenous people to comprise 33% of the total federal inmate population in the next three years. Over the longer term, and for the better part of three decades now, despite findings of Royal Commissions and National Inquiries, intervention of the courts, promises and commitments of previous and current political leaders, no government of any stripe has managed to reverse the trend of Indigenous over-representation in Canadian jails and prisons.”<sup>75</sup>*

This reality is likely even more dire with respect to incarcerated Indigenous women, who make up an even greater share of the population in federal prisons designated for women.<sup>76</sup>

## CAEFS Recommendations

CAEFS echoes the calls made by many Indigenous communities, activists, and organizations to CSC, other Canadian political bodies and courts. These include:

- **Utilizing section 81 and 84 of the *Corrections and Conditional Release Act*** to create nation-to-nation agreements with Indigenous communities regarding the placement of Indigenous people serving federal sentences.
- **Expanding principles from *Gladue* and section 218 of the *Criminal Code*** to remedy the overincarceration of Indigenous people “to the extent that a remedy is possible through the sentencing process.”<sup>77</sup>
- **Fulfilling Canadian obligations under the *United Nations Declaration on the Rights of Indigenous Peoples*** which calls on member states to affirm Indigenous Peoples’ right “to live in freedom, peace and security as distinct peoples” and freedom against being subjected “to any act of genocide or any other act of violence.”<sup>78</sup>
- **Recognizing Indigenous sovereignty over unceded territories** to prevent the ongoing criminalization of Indigenous women activists and land defenders.
- **Increasing funding to Indigenous communities** to address socioeconomic marginalization caused by Canadian policies of settler colonialism and genocide, including policies that have left Indigenous communities without adequate housing, food security, and clean drinking water.
- **Ensuring all Calls to Action** issued by the National Inquiry into MMIW and the TRC are fulfilled.

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- <sup>1</sup> Marie-France Kingsley, "Indigenous People in Federal Custody Surpasses 30% Correctional Investigator Issues Statement and Challenge" (2020) available at: <https://www.oci-bec.gc.ca/cnt/comm/press/press20200121-eng.aspx>. [2020 OCI News Release]
- <sup>2</sup> Kim Pate, "Policy Briefing Note: Rising Incarceration Rates Of Racialized Women", online: Canadian Research Institute for the Advancement of Women [https://www.criaw-icref.ca/images/userfiles/files/P4W\\_BN\\_IncarcerationRacializedWomen\\_Accessible.pdf](https://www.criaw-icref.ca/images/userfiles/files/P4W_BN_IncarcerationRacializedWomen_Accessible.pdf) [Pate].
- <sup>3</sup> Clark, p 13-17.
- <sup>4</sup> Canadian Human Rights Commission, *Report on Equality Rights of Aboriginal People* (Ottawa: Minister of Public Works and Government Services Canada, 2013), p 28, online: Canadian Human Rights Commission [http://www.chrc-ccdp.gc.ca/sites/default/files/equality\\_aboriginal\\_report.pdf](http://www.chrc-ccdp.gc.ca/sites/default/files/equality_aboriginal_report.pdf) [CHRC, Equality Rights].
- <sup>5</sup> *Ibid.*, p 18.
- <sup>6</sup> Paula Arriagada, Tara Hahmann and Vivian O'Donnell, "Indigenous people in urban areas: Vulnerabilities to the socioeconomic impacts of COVID-19" (2020), online: Statistics Canada: <https://www150.statcan.gc.ca/n1/pub/45-28-0001/2020001/article/00023-eng.htm>
- <sup>7</sup> Scott Clark, "Overrepresentation of Indigenous People in the Canadian Criminal Justice System: Causes and Responses" (2019), p 16 online: Government of Canada, Department of Justice <https://www.justice.gc.ca/eng/rp-pr/jr/oip-cjs/oip-cjs-en.pdf> [Clark].
- <sup>8</sup> Statistics Canada, *Women in Canada: A gender-based statistical report* (Ottawa: Minister of Industry Canada, 2006) at page 193, online: Statistics Canada <http://www.statcan.gc.ca/pub/89-503-x/89-503-x2010001-eng.htm>
- <sup>9</sup> Clark, p 16.
- <sup>10</sup> Statistics Canada, "The housing conditions of Aboriginal people in Canada" (2017), online: Statistics Canada <https://www12.statcan.gc.ca/census-recensement/2016/as-sa/98-200-x/2016021/98-200-x2016021-eng.pdf>
- <sup>11</sup> *Ibid.*
- <sup>12</sup> Kazi Stastna, "First Nations housing in dire need of overhaul" (28 November 2011), online: CBC News <http://www.cbc.ca/news/canada/first-nations-housing-in-dire-need-of-overhaul-1.981227>
- <sup>13</sup> Government of Canada, "Ending long-term drinking water advisories" (2021), online: Government of Canada <https://www.sac-isc.gc.ca/eng/1506514143353/1533317130660>
- <sup>14</sup> Parliament, Standing Committee on the Status of Women, "Call Into the Night: An Overview of Violence against Aboriginal Women" in Reports and Government Responses, No. 14 (25 March 2011), p 4, online: Parliament of Canada <http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=5056509&Language=E> [2011 Standing Committee].
- <sup>15</sup> National Inquiry into MMIW, Volume 1a, p 636: "There is a clear connection between the violence that missing and murdered Indigenous women and girls experience and their overincarceration."
- <sup>16</sup> Audrey Huntley, "Aboriginal Women's Access to Justice Video Project Report", CD-ROM (Toronto, METRAC 2011).
- <sup>17</sup> CHRC, Equality Rights, p 56.
- <sup>18</sup> Statistics Canada, *Measuring Violence against Women: Statistical Trends* (Ottawa: Minister of Industry Canada, 2013) p 9, online: Statistics Canada <http://www.statcan.gc.ca/pub/85-002-x/2013001/article/11766-eng.htm>
- <sup>19</sup> Canadian Feminist Alliance for International Action (FAFIA), *Murders and Disappearances of Aboriginal Women and Girls in Canada*, p 12, online: FAFIA <http://www.fafia-afai.org/wp-content/uploads/2014/09/6-20131ACHRBriefingPaperMarch-5.pdf> [FAFIA].
- <sup>20</sup> *Ibid.*
- <sup>21</sup> Human Rights Watch, *Those Who Take Us Away: Abusive Policing and Failure in Protection of Indigenous Women and Girls in Northern British Columbia*, p 7, online: Human Rights Watch [http://www.hrw.org/sites/default/files/reports/canada0213webwcover\\_0.pdf](http://www.hrw.org/sites/default/files/reports/canada0213webwcover_0.pdf) [Human Rights Watch].
- <sup>22</sup> FAFIA, p 12.
- <sup>23</sup> Office of the Correctional Investigator, *Annual Report 2014-2015*, p 3, available online: <https://www.oci-bec.gc.ca/cnt/rpt/pdf/annrpt/annrpt20142015-eng.pdf>
- <sup>24</sup> Correctional Service Canada, "Women offenders", available online: <https://www.csc-scc.gc.ca/publications/005007-3012-en.shtml> [CSC, Women Offenders]
- <sup>25</sup> Jonathan Rudin, "Aboriginal Peoples and the Criminal Justice System. Report prepared for the Ipperwash Inquiry" (2007), online: [http://www.attorneygeneral.jus.gov.on.ca/inquiries/ipperwash/policy\\_part/research/pdf/Rudin.pdf](http://www.attorneygeneral.jus.gov.on.ca/inquiries/ipperwash/policy_part/research/pdf/Rudin.pdf)
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- <sup>27</sup> Paul Millar and Akwasi Owusu-Bempah, "Whitewashing criminal justice in Canada: Preventing research through data suppression" (2011), *Canadian Journal of Law and Society* 26: 653–661.
- <sup>28</sup> Correctional Service Canada, *A Comprehensive Study of Recidivism Rates among Canadian Federal Offenders* (2019) online: Correctional Service Canada <https://www.csc-scc.gc.ca/005/008/092/005008-r426-en.pdf>
- <sup>29</sup> 2011 Standing Committee, p 17.
- <sup>30</sup> *Ibid*, p 30.
- <sup>31</sup> Human Rights Watch, p 20.
- <sup>32</sup> National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls* (2019), Volume 1a, p 717, available at: [https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Final\\_Report\\_Vol\\_1a-1.pdf](https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Final_Report_Vol_1a-1.pdf) [National Inquiry into MMIW, Volume 1a]
- <sup>33</sup> National Inquiry into MMIW, volume 1A, p 5.
- <sup>34</sup> The Truth and Reconciliation Commission of Canada, *Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada* (2015), p 1, available at: [http://www.trc.ca/assets/pdf/Honouring\\_the\\_Truth\\_Reconciling\\_for\\_the\\_Future\\_July\\_23\\_2015.pdf](http://www.trc.ca/assets/pdf/Honouring_the_Truth_Reconciling_for_the_Future_July_23_2015.pdf) [TRC].
- <sup>35</sup> CBC News, "Unmarked grave findings in Canada prompt reckoning among U.S. churches" (July 22, 2021), online: CBC <https://www.cbc.ca/news/canada/north/unmarked-graves-residential-schools-us-churches-1.6113448>
- <sup>36</sup> Vicki Chartand, "Unsettled Times: Indigenous Incarceration and the Links between Colonialism and the Penitentiary in Canada", *Canadian Journal of Criminology & Criminal Justice*, July 2019, Vol. 61 Issue 3, p 67-89 [Chartand].
- <sup>37</sup> National Inquiry into MMIW, volume 1A, p 637.
- <sup>38</sup> *Ibid*.
- <sup>39</sup> Erin Hanson, "The Indian Act", online: Indigenous Foundations [https://indigenousfoundations.arts.ubc.ca/the\\_indian\\_act/](https://indigenousfoundations.arts.ubc.ca/the_indian_act/)
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- <sup>41</sup> Erin Hanson, "Sixties Scoop", online: Indigenous Foundations [https://indigenousfoundations.arts.ubc.ca/sixties\\_scoop/](https://indigenousfoundations.arts.ubc.ca/sixties_scoop/)
- <sup>42</sup> Audrey Huntley, "Aboriginal Women's Access to Justice Video Project Report", CD-ROM (Toronto, METRAC 2011).
- <sup>43</sup> See Pam Palmater, "The Supreme Court has just gutted the Crown's duty to consult First Nations" (October 11, 2018): <https://www.macleans.ca/opinion/the-supreme-court-has-just-gutted-the-crowns-duty-to-consult-first-nations/>
- <sup>44</sup> Michaela M McGuire and Danielle J Murdoch, "(In)-justice: An exploration of the dehumanization, victimization, criminalization, and over-incarceration of Indigenous women in Canada" (2021), *Punishment & Society*, p 2-3, online: <https://journals.sagepub.com/doi/pdf/10.1177/14624745211001685>.
- <sup>45</sup> CSC, "Overrepresentation of Indigenous Offenders" (2020), online: Public Safety Canada <https://www.publicsafety.gc.ca/cnt/trnsprnc/brfng-mtrls/prlmntry-bndrs/20200621/018/index-en.aspx>
- <sup>46</sup> Chartand, p 78-79.
- <sup>47</sup> BC Civil Liberties Association, "Canada's RCMP and Secret Service (CSIS) Spy on Enbridge Pipeline Opponents, Native Groups, Environmentalists" (2014), online: BC Civil Liberties Association <https://bccla.org/2014/03/canadas-rcmp-and-secret-service-csis-spy-on-enbridge-pipeline-opponents-native-groups-environmentalists/>
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- <sup>49</sup> *Ibid*.
- <sup>50</sup> Holly McKenzie-Sutter, "Judge grants permanent injunction against demonstrators in Indigenous land dispute" (2020), online: CTV News <https://kitchener.ctvnews.ca/judge-grants-permanent-injunction-against-demonstrators-in-indigenous-land-dispute-1.5156612>
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- <sup>55</sup> *Ibid.*
- <sup>56</sup> *Ibid.*
- <sup>57</sup> *Ibid.*
- <sup>58</sup> *Ibid.*
- <sup>59</sup> Pate.
- <sup>60</sup> Clark, p 17.
- <sup>61</sup> The Office of the Correctional Investigator, *Spirit Matters: Aboriginal People and the Corrections and Conditional Release Act* (Ottawa: Minister of Public Works and Government Services Canada, 2012) at p 12, online: The Correctional Investigator of Canada [https://publications.gc.ca/collections/collection\\_2013/bec-oci/PS104-6-2013-eng.pdf](https://publications.gc.ca/collections/collection_2013/bec-oci/PS104-6-2013-eng.pdf) [Spirit Matters].
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