



Institute for the Advancement of Aboriginal Women

WRITTEN SUBMISSION TO
THE NATIONAL INQUIRY INTO
MISSING AND MURDERED INDIGENOUS WOMEN AND GIRLS

December 14, 2018

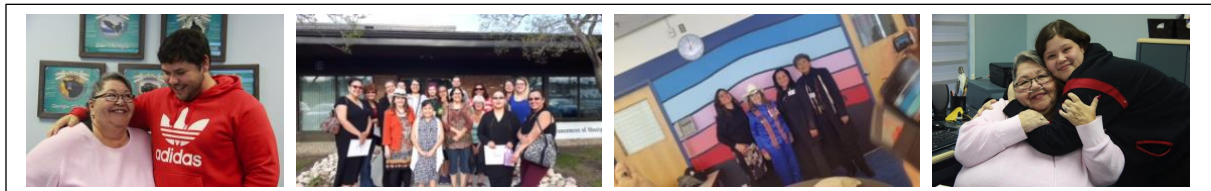
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IAAW Elder and staff Marggo Pariseau, IAAW Volunteers, Leaders, and Friends



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Introduction

The most significant new theme we identified in this process was the impact of racism. Whether it took the form of institutionalized ignorance, stigma, and stereotypes, or racially motivated violence, racism was the issue most frequently raised at the community meetings (with survivors, families, and loved ones) and stakeholder meetings (with provinces, territories, National Indigenous Organizations, non-governmental and international organizations, Indigenous leaders, scholars, and legal experts).

From: Our Women and Girls are Sacred: Interim Report
National Inquiry into Missing and Murdered Indigenous Women and Girls¹

1. The number of deaths and disappearances of Indigenous women and girls in Canada is a national tragedy that must be stopped. This Inquiry was established to identify and examine systemic causes of violence against Indigenous women and girls in Canada and to make recommendations for effective action.
2. The Inquiry has heard firsthand from families and survivors who shared their experiences and observations of how they have been impacted by such violence. Wisdom and knowledge-keepers and experts from diverse disciplines have provided evidence on matters relevant to address the national tragedy of violence against Indigenous women and girls.
3. As a party with national standing the Institute for the Advancement of Aboriginal Women (“IAAW”) participated in many of the Inquiry proceedings. Our final submissions reflect IAAW’s reflections on what we have heard through this Inquiry process. More importantly though, these submissions are based on decades of experience working with Indigenous women and girls who face violence as regular life experience.
4. In these submissions, IAAW will report on what we believe are systemic causes of violence against Indigenous women and girls in Canada. In addition to consideration of evidence that has been presented before this Inquiry our primary evidentiary basis for this belief is rooted in the lived experience of those Indigenous women and girls who have participated in IAAW programs and

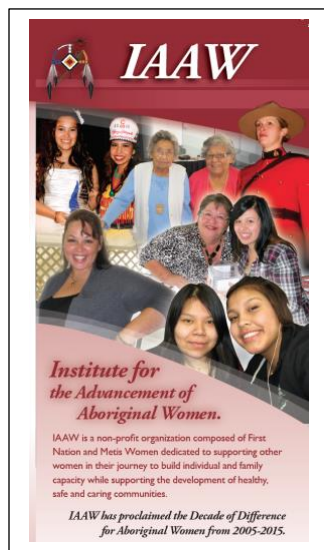


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research studies. Through these participatory projects, women have consistently identified the underlying social, economic, cultural, institutional, and historic causes of their contemporary suffering.

5. IAAW will make recommendations on concrete action that we submit ought to be taken in order to effectively address the systemic causes of violence experienced by our women, in ways that honour and commemorate those who are yet missing and those we know have lost their lives as result of such violence.

About IAAW



IAAW Brochure

6. IAAW is a non-profit organization founded in 1994 by Indigenous women to promote the rights of Indigenous women. The organization has operated for decades to provide much needed programs and services to Indigenous women and girls through education, family violence workshops, mediation and advocacy, entrepreneurial and wellness programs, women's transition programs, and youth leadership workshops. We provide these important services to hundreds of Indigenous women every year. We also provide cultural support and advocacy services for our women incarcerated or leaving corrections, helping them to transition to life in the community.

7. While IAAW is open to working with First Nation, Métis, and Inuit women, the organization's membership has traditionally been comprised entirely of First Nation and Métis women. It is for this reason that IAAW's submissions to the Inquiry focus primarily on First Nation and Métis women. This is by no means intended to suggest that the issues facing Inuit are any less important. IAAW respects the role of organizations representing Inuit women, girls, and communities in this process and gives full support to those representative parties. We simply did not see it as our place to comment on the unique circumstances facing Inuit women and girls when we have had minimal opportunity to work directly with them.



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8. As result of the decades of work it has done IAAW represents unique and significant insights into the experiences of Indigenous women, particularly into the ways through which Indigenous women experience personal and social forms of discrimination and the multiple ways in which these discriminatory beliefs and biases continue to perpetuate systemic inequalities. This knowledge provides the theoretical framework for IAAW's advocacy, educational initiatives and ongoing effort to uphold the rights of Indigenous women.

9. IAAW compiles and distributes to stakeholders, including Indigenous women, youth, governments, and support agencies, a variety of resources to support Indigenous youth and women, including primary research into the role of Indigenous women in decision-making processes, community resource kits to promote social inclusion of Indigenous women, support services for victims of violence, and summaries and reports following community consultations with Indigenous women.

10. Through its advocacy work IAAW has always strived to collaborate with government, law enforcement, and the justice system on the impact of law and policy on Indigenous women and to create action plans to reduce and prevent violence against our women. But we are growing weary. Like many other organizations working directly with women we have come to question the ability to make real change within existing structures. This is because it becomes more and more apparent, every time we hear about another death, another violent assault, another case of injustice, that the status quo must change.

11. With this backdrop we begin by saying that we agree with a key finding of this Inquiry as outlined in the Interim Report, that violence against Indigenous people—including Indigenous women and girls—is rooted in colonization, and that for the violence against Indigenous women and girls to end, the ongoing colonial relationship that facilitates it must end.

Indigenous Demographics

12. At the time of the most recent Census there were 1,673,785 Aboriginal people² in Canada, accounting for 4.9% of the total population. In Alberta, the total population of Aboriginal people



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was then reported to be 258,640, or 6.5%. Of these numbers 136,585 were identified as First Nations (52.8%), 114,375 as Métis (44.2%) and 2,500 (1%) as Inuit.³

13. In 2016 Edmonton, Alberta had the second largest Aboriginal population of all Canadian cities at 5.4% of the population. By 2036 the Aboriginal population in this Capital City is expected to increase by 89% (123,000).⁴

14. In 2016 there were 860,265 Aboriginal women and girls in Canada, who made up 5% of the total female population in Canada.⁵ According to Aboriginal population projections, the female Aboriginal population in Canada could increase to between 987,000 and 1,316,000 by 2036.

Reported Statistics About Violence Against Indigenous Women and Girls

15. The reported rates of violence against Indigenous women are staggering and vastly disproportionate to the general population. From 2001 to 2015, the homicide rate for Aboriginal females was nearly six times higher than non-Aboriginal females. Although Indigenous women made up only 5% of the female population, as recent as 2015 Aboriginal females accounted for 24% of all female homicide victims. This over-representation of Aboriginal women among homicide victims was observed in most provinces and in the territories but was most notable in the territories and the provinces of Manitoba, Alberta and Saskatchewan.⁶

16. Indigenous women and girls experience violence in more brutal forms than women in the general population.⁷ They are three times more likely to be beaten, sexually assaulted, and killed than non-Indigenous women and they are more likely to experience severe and life-threatening forms of family violence.⁸ Between 2001-2014, the rate of Aboriginal female homicide was six times higher than for non-Aboriginal females.⁹

17. Though 80% of murdered and missing women in Canada were not involved in the sex trade,¹⁰ Indigenous women who may be involved in the sex trade are particularly vulnerable to violence. Between 1991-2004, 171 women involved in prostitution were killed in Canada and 45% of those cases remain unsolved.¹¹



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18. Despite increasing monitoring and research, the scale and severity of violence against Indigenous girls and women is not fully known as incidents continue to be underreported and not investigated. For example, national studies show that over 76% of non-spousal violent incidents were not reported to police nor were 79% of these brought to the attention of a formal victim service.¹²

19. Indigenous organizations and academics have had opportunity to research and compile their own data. The Native Women's Association of Canada (NWAC) reported 582 missing and murdered Indigenous women.¹³ Independent research by Dr. M. Pearce reports to 824 missing or murdered women;¹⁴ and the Royal Canadian Mounted Police (RCMP) reports 1,181 Aboriginal female homicides and unresolved missing Aboriginal female investigations between the years of 1980 – 2012.¹⁵

20. Most incidences of murdered or missing Indigenous women occur in Western provinces. Of NWAC's 2010 database of 582 Indigenous women who were missing or murdered in Canada, 20% occurred in British Columbia and 16% in Alberta. The majority of cases occurred in urban areas: 70% of the women and girls disappeared from an urban area while 60% were murdered in an urban area.¹⁶



Root Causes of Violence

21. Violence occurs in various spheres such as interpersonal, structural, public, private, state and non-state and it occurs in various forms such as domestic, sexual, and physical violence as well as economic, emotional, ecological, and spiritual violence.¹⁷

22. One form of violence against Indigenous women often leads to violence in other areas. Many Indigenous women have been forced into situations that increase their vulnerability to violence, such as hitchhiking, addictions, homelessness, prostitution and other sex work, gang involvement, or abusive relationships.

23. Family violence is also pronounced for Indigenous women. They experience higher rates of intimate partner violence¹⁸ this violence tends to be more severe in nature and result in more serious injuries.¹⁹ It is hypothesized by some researchers that Indigenous women have higher rates of incarceration than the general population because of their response to this violence.²⁰

24. IAAW concurs with the conclusions of a vast body of research which suggests that these experiences of violence are rooted in larger structures of inequality such as racism, colonialism, sexism and patriarchy.²¹

25. In its submissions to the Committee on the Elimination of Discrimination against Women Canada asserted in 2015 that “all levels of government in this country are working together with communities, civil society and aboriginal citizens to address the challenges and to make life safer for all citizens” and that it has in place a “strong framework for the protection and promotion of human rights...including many laws, programmes, policies and institutions.”²²

By violence against women, I mean aggression against and exploitation of women because we are women, systemically and systematically. Systemic, meaning socially patterned, including sexual harassment, rape, battering of women by intimates, sexual abuse of children, and women-killing in the context of poverty, imperialism, colonialism, and racism. Systematic, meaning intentionally organized, including prostitution, pornography, sex tours, ritual torture, and official custodial torture in which women are exploited and violated for sex, politics, and profit in a context of, an intricate collaboration with poverty, imperialism, colonialism, and racism.

Catharine MacKinnon, 2006

26. Ample evidence has been tabled before the Inquiry to call into question this claim. We will demonstrate, in the following section that the various levels of government in this country are not working together to address the challenges to make life easier for Indigenous women and girls as citizens. We disagree that there is a strong framework in place to promote and promote the human rights of Indigenous women and girls. Moreover, as we will demonstrate in this submission, many laws, programmes, policies and institutions in this country result in further harm and violation of the rights of Indigenous women and children.

27. We submit that through concrete, unequivocal recommendations this Inquiry must hold Canada accountable for such statements made to the international community.

Programmes and Policies as Root Causes of Violence Against Indigenous Women

28. IAAW notes with interest evidence presented before the Inquiry that there is significant disparity amongst provinces with respect to the delivery of programs and services for Indigenous women and girls. For example, we heard that Victim's Services in



IAAW leading the Esquao Youth Program community-based model, delivered by community organizations, Indigenous governments, and hamlet councils, rather than public servants. Funding is provided from government to those organizations.

29. IAAW submits that the model of program delivery in the Northwest Territories, as described by expert witnesses before the Inquiry is also consistent with the reality that the most effective program delivery is through the direct involvement of women with lived experience.

30. Numerous non-government organizations participating in this Inquiry identified that there is consistently a lack of secured, sustainable funding for program delivery. IAAW agrees with this position and its own programs have suffered as result of this deficiency in funding models. It is extremely difficult, and often impossible, to make multi-year plans to address the needs of the women



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and families served when funding is provided on a project basis or tied to government's fiscal year-end.

31. IAAW makes the following recommendations respecting program delivery:

Recommendation #1: That Indigenous-led organizations with the mandate, demonstrated experience and expertise in given program areas be given first and formal preference over other organizations for the design and delivery of programs and services to meet the needs of Indigenous women;

Recommendation #2: That this Commission recommend that grant funding provided to Indigenous organizations to address the systemic causes of violence be provided on a multi-year basis;

Recommendation #3: That adequate funding shall be provided to such organizations to deliver programs and services, as well as resources for training, and support for workers dealing with trauma.

32. It was also apparent throughout this Inquiry that there is significant disparity of services between regions and between First Nations, Métis and other Indigenous communities. In the Yukon, for example, this Inquiry received evidence that every First Nation is receiving funding for culturally-appropriate assistance for accused people in the criminal justice system. IAAW submits that there is not an equivalent approach being taken in other provinces, and certainly not in Alberta.

33. As an organization whose membership is comprised almost entirely of First Nation and Métis women, IAAW notes that there has been minimal involvement or consideration of the unique needs of Métis women and girls. In support of our Métis women and girls and in solidarity with organizations working for and with Métis women and girls, IAAW makes the following recommendation:



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Recommendation #4: That this Inquiry formally recognize that Métis women and girls are as vulnerable to victimization as are other Indigenous women and girls in Canada, that further research and evidence should be considered about their experiences, and that specific recommendations that target Métis as a group is warranted.

Research

Non-Indigenous research and policy is reminiscent of all other experiences with colonialism and imperialism in the West's drive for dominance and where Eurocentrism was imposed as the appropriate and only vision of the universal.

Ermine Willie, Raven Sinclair, Bonnie Jeffery and
Indigenous Peoples Health Research Centre²³

34. Throughout these proceedings thousands of pages of research, reports, findings, and recommendations have been tabled. This Inquiry has heard through several witnesses that we, the Indigenous people, particularly Indigenous women, have the answers to what is needed in order to address the continuing violence that we experience on a daily basis. And yet, as expert Jesse Wenthe said when he testified before the Inquiry, and as we have seen in these thousands of pages submitted, we continue to see ourselves represented and often misrepresented by external sources. We submit that this leaves Indigenous people feeling in this constant state of “other”.

35. Non-Indigenous organizations and people account for a substantial portion of research, program development, and expertise on Indigenous issues. Sadly, it is often the case that this specialization leads to the creation and promotion of non-Indigenous experts on Indigenous People.²⁴ Often this significant body of research about Indigenous ways of life emphasizes negative social issues and pathologies and is frequently inaccurate.²⁵ The skewed representations can result in inaccurate research, education, media coverage, dehumanizing stereotypes, and slanted policy that typically retains the status quo.²⁶



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36. However, Indigenous communities are challenging researchers, directors, and funders to be wary of practices that have undermine Indigenous empowerment and independence.²⁷ Indigenous scholars have criticized the imposition of Western research on Indigenous populations, and mainstream institutions have acknowledged that research needs to be more ethically sound, especially for vulnerable people, including Indigenous people.²⁸ Indigenous scholars are insisting that Indigenous research needs to be conducted by Indigenous people.²⁹

37. IAAW acknowledges this reality and submits that this similarly is the experience of Indigenous women and families when programs are delivered by government, or government agencies with no connection to Indigenous community. And so we say: “Stop studying us, stop meeting as experts to talk about ‘us’ and to criticize our cultures, our beliefs, or traditions. Do not refer to us as possessions, as being ‘your Aboriginal people’.” We are not objects. We are not statistics. We are not just issues.

38. As aptly noted by this Inquiry, decolonization will require governments to recognize the inherent jurisdictions of Indigenous Peoples and properly resourcing the solutions. These solutions must be led by self-determining Indigenous people, communities, and Nations.

39. Accordingly, with respect to research, and program design and delivery, IAAW makes the following recommendations:

Recommendation #5: That any post-Inquiry research proposed must be Indigenous developed, lead, and/or owned and subject to strict ethical and protocol requirements as articulated by leading Indigenous research scholars and Indigenous women with lived experience;

Recommendation #6: That Indigenous women must be active leaders in the design, implementation, and review of programs and policies directed to increase their safety.



The Canadian Criminal Justice System

The most significant issue our partners identified is the role that police forces and the criminal justice system play in perpetrating violence against Indigenous women and girls. There is an overall lack of trust in the justice system—including the police, courts, coroners, and corrections—and a belief that women and families are not receiving the justice they deserve.

From: Our Women and Girls are Sacred: Interim Report
The National Inquiry into Missing and Murdered Indigenous
Women and Girls³⁰

40. Uniformly across Canada, Indigenous women are vastly underserved as victims yet overrepresented as accused in the criminal justice system. The main components in the administration of justice -- the police, the courts, and corrections present consistent patterns of devaluation and harm to Indigenous women.

41. As outlined below, the social contexts of racism, colonialism, and sexism produce conditions of systemic and targeted forms of violence and abuse, whether it is police bias that impact their interventions, inhumane treatment of women in the courts and by the courts, or their disproportionate imprisonment. Notwithstanding various human rights guarantees, government commitments, and comprehensive studies and reports about these issues, Indigenous peoples, and Indigenous women specifically, continue to experience significant discrimination, inequality, and violence within the justice system.

Recommendation #6: This Inquiry must formally recognize that the colonial model of the criminal justice system in Canada is a root cause of violence experienced by Indigenous women, and that in order to truly address the violence against Indigenous women and girls, that system must change.

42. By virtue of its advocacy work IAAW has unique insight into the ways in which Indigenous women in Alberta experience violence in the criminal justice system. To contextualize these submissions IAAW will reference three contemporary case cases that have



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been proceeding within the Alberta criminal justice system in recent years. These are: the mistreatment of the Indigenous complainant in *R. v. Blanchard*⁶¹ by multiple actors within the criminal justice system; the mistreatment of a young Indigenous female complainant in *R. v. Wagar*³² by the learned trial judge; and the dehumanization of Cindy Gladue in *R. v. Barton*.³³

43. In addition to these specific cases, we provide summaries of findings and observations from numerous IAAW consultations that support the conclusion that the justice system is a key source of ongoing violence and systemic inequality toward Indigenous women.

44. IAAW submits that these sources support a formal acknowledgement by the Inquiry that there is an urgent need for a comprehensive review of the criminal justice system.

Policing

The police have come a long way in moving from law enforcement to building relationships and helping; however, a lot more work needs to be done to build mutual trust and respect. Many Aboriginal people have learned to fear law enforcement, and this prevents them from coming to police for help and from reporting crimes. We need to find ways to reach out to people who are afraid to go to the police because they have previous negative experiences or a warrant.

Participant, Institute for the Advancement of Aboriginal Women³⁴

45. Since its inception in 1994 IAAW has had positive working relationships with police representatives on issues concerning justice for Indigenous women. When IAAW became involved with the families and friends of specific missing or murdered Indigenous women, select known officers went above and beyond the call of duty in their work.³⁵ Sadly, these isolated examples are not the norm for most Indigenous women's first contact with the police.

46. As part of a two-year strategy to develop a plan to address missing and/or murdered Indigenous women in Alberta, IAAW conducted consultations with stakeholders, including women



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living in what was considered to be “high risk” situations and facilitated gatherings to hear from those with lived experience.

47. Interactions with police was identified as one of the largest challenges facing Indigenous women and a critical point of contact with the broader criminal justice system. Indigenous women in Edmonton characterized the relationship between the police and community members as fractured.

48. Information from secondary sources³⁶ identify seven critical police failures in relation to the handling of cases: poor report-taking and follow-up of reports on missing women, faulty risk analysis and risk assessment, failure to respond to complaints and lack of adequate proactive strategy to prevent further harm,³⁷ failure to consider scenarios and properly pursue all investigate strategies,³⁸ failure to follow major case management practices and policies, failure to address cross-jurisdictional issues and ineffective coordination between police forces and agencies,³⁹ and failure of internal review and external accountability mechanisms.⁴⁰

49. These shortcomings in the delivery of police services to Indigenous women makes them more vulnerable to violence. IAAW knows this to be the case because Indigenous women, especially those who are murdered, tend to have made “repeated and persistent attempts to engage the criminal justice system and use all legal remedies available to them to secure their own safety.”⁴¹ The inexcusable truth is that many women’s deaths could be predicted and prevented by co-ordinated and skilled intervention.⁴²

50. This manner of police response sends a clear message to Indigenous women and girls that they are not valued and that violence towards them is tolerated or condoned. “When the police fail to properly investigate the murder of Indigenous women or fail to investigate missing Indigenous girls, through their example, they help create a society that devalues Indigenous women and send clear signals that others in society can abuse them with relative impunity.”⁴³

51. IAAW submits that such shortcomings by the police is an effect of colonization and its embedded racism and sexism. Canadian police services are under no constitutionally imposed and



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affirmative duty to protect women when injured or to take action to prevent the harm in the first place.⁴⁴ We have been told that some police hold the view that Indigenous people tolerate or condone crime and disorder, or that Indigenous women's domestic violence is a private matter while others blame the women for their victimization.⁴⁵

52. Finally, the justice system promotes a monocultural set of values and practices in that it plans and delivers services under the premise that everyone is equally under the law and subject to equal treatment. This "blind" justice, however, does not account for systemic racism that creates unequal outcomes in our women's encounters with the police.⁴⁶

53. Despite being underserved as victims of violence, Indigenous women are over-policed and over-criminalized, particularly with regards to poverty-related crimes.⁴⁷ Indigenous people, particularly Indigenous women and girls, constitute a vastly disproportionate number of incarcerated persons relative to their population. Largely because of police bias that targets Indigenous women and a culture of strict enforcement and arrest which adds to additional problems of police-involved racialized and sexualized abuse and violence against Indigenous women and girls. These issues have led to Indigenous women's mistrust of police and has contributed to isolation, under-protection and vulnerability.

54. Complaints by Indigenous women to IAAW about specific police practice of carding are echoed by Indigenous people in most jurisdictions in Canada.⁴⁸ Indigenous women in Edmonton face disproportionate surveillance by police in the form of carding⁴⁹ and this racial profiling, here defined as "the targeting of individual members of a particular racial group, on the basis of the supposed criminal propensity of the entire group,"⁵⁰ has profound effect on the individual who is profiled, including a loss of self-esteem and loss of sense of safety and security.⁵¹

55. Racial profiling not only results in the alienation of communities and individuals but has also been found to be ineffective as a strategy for ensuring community safety and security.⁵² Further, street



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checks provide a first point of contact with the justice system and often result in Indigenous women being returned to custody for breach of minor conditions.⁵³

56. Though such practices may be regarded by police as legitimate and effective crime-fighting tactics, IAAW submits that the profiling of Indigenous women as criminal legitimizes systemic discrimination and further polarizes Indigenous people from the police.

57. Respecting police and police services, IAAW makes the following recommendations:

Recommendation #7: That proper supports and protections must be implemented for victims who wish to report police racism and violence, at all stages of the complaint process;

Recommendation #8: That the RCMP confront and develop strategies for overcoming officers' code of silence that allows problem officers to reinforce discriminatory behaviours;

Recommendation #9: That community-based structures such as local community advisory committees be established to invite community input into developing annual performance plans, to coordinate policing and related services, and deal with policing matters;

Recommendation #10: That all Police Forces have an Indigenous Relations Advisor who reports directly to the Chief or Commanding Officer with a mechanism for dealing with complaints;

Recommendation #11: That a working group be established with a monitoring function that includes Indigenous community members to review and make recommendations with respect to officer training, cultural awareness, and particularly competency on dealing with issues of violence



against Indigenous women and girls;

Recommendation #12: That an independent unit should be established, funded by government, to review police MMIW investigation files and to make recommendations with respect to moving solving open cases.

Access to Justice: Lack of Culturally-Relevant Legal Services

58. Access to justice is a fundamental aspect of an effective and efficient justice system there has been a long history of judicial disregard for Indigenous people and legal traditions. Indigenous women continue to face obstacles in trying to maneuver a justice system that is cumbersome, bureaucratic, and culturally foreign. This impedes women's rights and remedies and thus is a significant contributor to the problem of violence against Indigenous women.⁵⁴

59. States are obliged to take measures that ensure that Indigenous people enjoy full protection and guarantees against all forms of violence and discrimination. A clear implication of being unable to access justice services in a meaningful way because of one's Indigeneity means that violations continue to occur. The inability to access meaningful justice services for such reasons is an act of discrimination, and contrary to Canadian constitutional, legal and international obligations. Taking measures to ensure that Indigenous women and girls enjoy the full protection and guarantees against all forms of violence and discrimination means, where required, concrete steps must be taken to make necessary change to programs and services.

60. Several reports highlight barriers of the justice system such as lack of communication and responsiveness, lack of awareness of rights, discriminatory treatment of Indigenous women victims and witnesses, insufficient enforcement of laws, and low prosecution rates for crimes against Indigenous women.⁵⁵

61. Navigating the justice system is challenging for persons who are typically already subject to systemic oppression, racism and inequality. When vulnerable people suffer frequent rights violations,



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their vulnerability increases when they have no protection or recourse. The cycle of violence either continues or gets worse.

62. Knowing your Individual rights and responsibilities is an important component of being able to interact with justice authorities and access legal resources as needed.

63. Marginalization and discrimination create an inevitable sense of self-defeat and lack of self-confidence for Indigenous women. The notion of navigating what is perceived to be a foreign, unwelcoming legal system seems and is typically, an insurmountable challenge for most.

64. While a competent lawyer or advocate could be of great value, most Indigenous women who find themselves involved in the justice system lack resources to hire a lawyer. Consequently, and only if they are eligible, Indigenous women and girls may be assigned counsel through services such as Legal Aid. Having access to competent, knowledgeable counsel is a key factor to ensuring access to justice by Indigenous women and girls.

65. Differences in Indigenous and non-Indigenous notions of justice can lead to a misunderstanding of the actions and reactions of Indigenous people who find themselves involved in the legal system. Police, lawyers, judges and juries often misunderstand Indigenous women's words, demeanour, and body language.⁵⁶ Young offenders do not comprehend the language during trial or sentencing, do not understand punishment or probations, and are prone to recidivism.⁵⁷ Because of the broken communication, when interacting with police and the court system, Indigenous people often do not understand their rights and cannot express their needs and wants.

66. Access to justice is often also frustrated by the physical inaccessibility of legal services or the courts. Transportation to and from court is a huge barrier, augmented, for example, by the loss of long-distance bus services in Alberta, Saskatchewan, and Manitoba.⁵⁸

67. IAAW submits the following specific recommendations regarding support for Indigenous persons involved with the justice system:



Recommendation #13: That culturally relevant independent legal representation for Indigenous women and girls be guaranteed through review of existing programs and policies for legal services;

Recommendation #14: That the Legal Aid counsel appointment process be amended so that Indigenous accused, and persons seeking coverage for civil and family matters may elect to have Indigenous counsel appointed;

Recommendation #15: That victims of crime shall be provided support services in their traditional languages, with proper funding support allocated to enable such services;

Indigenous Women's Experience in the Courts

68. The criminal justice system in Canada is founded on the premise that everyone is equal before the law. When allegations of wrongdoing are brought before it, power imbalances are theoretically irrelevant and decisions are to be decided based on principle and evidence properly brought before the Court. Indigenous women have testified before this Inquiry that they are unequivocally not seen or treated as equals before the law, in particular when they become involved with the criminal justice system. Colonial attitudes, myths, and stereotypes continue to stalk the halls of justice for Indigenous women as victims, accused, or witnesses.

69. In the Inquiry's Interim Report the criminal justice system is identified as playing a key role in the perpetration of violence against Indigenous women and girls. IAAW agrees with this finding. As result of its advocacy work IAAW has gained first-hand insight into this fact and we highlight 3 contemporary criminal cases that have been tried in the Alberta courts within the past 5 years to support our recommendations.

R. v. Blanchard⁵⁹

70. Angela Cardinal was an Indigenous woman living on the streets in Edmonton when she suffered a horrific attack by Lance Blanchard. She was brutally beaten, stabbed, and sexually assaulted, an experience that she later described as making her feel disgusted, disempowered and afraid for her life.⁶⁰

71. In June 2015 Ms. Cardinal was the Crown’s key witness in Blanchard’s preliminary inquiry. During her testimony she was clearly distraught. Although she expressly said that she was experiencing anxiety, she did not at any point refuse to testify.⁶¹ Despite this, she was ordered to be remanded under s. 545(1)(b) of the Criminal Code, s. 72,⁶² a rarely-used provision that allows for a judge to order the detention of a witness who, “having been sworn, refuses to answer the questions that are put to him, without offering a reasonable excuse for his failure or refusal.”

72. Ms. Cardinal was incarcerated at the Edmonton Remand Centre and remained in custody there for five days during the preliminary inquiry. At several points during her examination and cross-examination, where she stood in shackles, Ms. Cardinal questioned what was happening to her: “I’m the victim here, and look at me, I’m in shackles. This is fantastic. This is a great frickin – this is a great system.”⁶³ She expressly advised the court of the difficult conditions at the Remand Centre and asked to be released to stay with her mother.⁶⁴



Photograph of Angela Cardinal

73. Ms. Cardinal was deprived of her liberty without proper representation.⁶⁵ In addition to being forced to testify in shackles, during court adjournments she was handcuffed, and held in cells that were in direct proximity to the man who had violently assaulted her.⁶⁶ Astoundingly, on at least two occasions, she was transported to and from court in the same van as him.⁶⁷

74. Ms. Cardinal’s testimony from the preliminary inquiry directly resulted in the conviction of



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Mr. Blanchard as a dangerous offender though she never received acknowledgement or an apology as, between the end of the preliminary inquiry and the trial of Mr. Blanchard, Ms. Cardinal was shot and killed in an unrelated incident.

75. Even if there were legitimate concerns about whether she would return to testify if released, no consideration was given to less coercive measures that could have supported Ms. Cardinal's reappearance in court. Her incarceration was justified as if it were for her own good. It was only later, when the trial judge characterized Angela's treatment through the preliminary inquiry as "appalling" that this inhumane treatment came to the public's attention."⁶⁸

76. The Alberta *Victims of Crime Act*⁶⁹ requires criminal justice actors to treat victims with "courtesy, compassion and respect," to ensure their "safety and security... at all stages of the criminal justice process," and to take "all reasonable measures to minimize inconvenience." Similarly, the *Canadian Victims Bill of Rights* provides that complainants are entitled to be "treated with courtesy, compassion and respect, including respect for their dignity."⁷⁰

77. Notwithstanding legislative protections intended to protect victims of crime such as Ms. Cardinal, rather than being treated as a rights-bearing individual entitled to dignity and respect, Ms. Cardinal was subjected to harshly punitive treatment and reduced to a mere instrument of the prosecution.

78. Rather than being treated as a rights-bearing individual entitled to dignity and respect, Ms. Cardinal was subjected to harshly punitive treatment and reduced to a mere instrument of the prosecution. Assumptions were made by the Crown, defence, and court about her state of sobriety, whether she was using drugs, her willingness to appear in court without being incarcerated, and her ability to testify, resulting in a deprivation of her liberty and equality rights.

79. When this case came to light the Minister of Justice and Solicitor General (Alberta) did order an independent investigation into the treatment of Angela Cardinal, and the Minister did acknowledge that there was enough blame to go around for the mistreatment of Ms. Cardinal. As an



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organization IAAW continues to ask what progress has been made or changes implemented to ensure that Indigenous women do not have to endure such abuse within the criminal justice system.

80. Many recommendations and calls to action have been circulated in response to past injustices and should have informed the court's treatment of Ms. Cardinal. The Supreme Court of Canada's decision in *Ipeelee*⁷¹ clearly demands that courts consider alternatives to incarceration. Options such as assigning a support worker or her own legal counsel to accompany her would have preserved her liberty, while also providing her with the needed supports to testify. These numerous infractions illustrate the carelessness of agents of the justice system towards depriving Ms. Cardinal of her rights.

81. In addition, issues, recommendations, and legal obligations about the court's treatment of Indigenous women have emerged in the national commissions,⁷² provincial inquiries and commissions⁷³, and Alberta's commitments under international law.⁷⁴ All call for the need to reframe the relationship between Indigenous women and the criminal justice system.

82. The inhumane treatment of Angela Cardinal is not an isolated instance of injustice, but is instead symptomatic of the mistreatment of Indigenous women by the criminal justice system as a whole, and the Courts in particular.

R. v. Wagar⁷⁵

83. In *Wagar*, a 2015 sexual assault case involving a teen victim, former Justice Robin Camp treated existing sexual assault law with disdain and reproduced widely discredited myths and stereotypes of sexual assault claimants through now infamous statements, such as asking a 19-year-old Indigenous woman, who was homeless at the time of the assault, "Why couldn't you just keep your knees together?"⁷⁶ or "Sex and pain sometimes go together [...] that's not necessarily a bad thing"⁷⁷ The judge also referred to the complainant as "the accused"⁷⁸ throughout the trial.

84. As the Coalition of Interveners in the Camp Inquiry argued, the enlivening of stereotypes, particularly sexual stereotypes and rape myths compound the original trauma of survivors and create perceived and real inequality that dissuades them from coming forward to report. More generally,



the Coalition suggested that

...any suggestion that rape myths and stereotypes are legally acceptable contributes to a climate in which women, and particularly marginalized women, face unequal and unacceptable risks of being subjected to sexual violence.⁷⁹

85. The Manitoba Aboriginal Justice Inquiry identifies this as a systemic problem:

A significant part of the problem is the inherent biases of those with decision-making or discretionary authority in the justice system. Unconscious attitudes and perceptions are applied when making decisions.⁸⁰

R. v. Barton⁸¹

86. At the Calgary Institutional Hearings IAAW tendered evidence before the Inquiry concerning the criminal trial of Bradley Barton in the death of Cindy Gladue. Ms. Gladue was an Indigenous mother of three, who bled to death as result of an 11-centimetre injury to her vagina. In March 2015, following a trial by jury, Barton was acquitted of the charge of murder. In fact the accused was acquitted of all charges relating to the horrific death of Ms. Gladue.

87. From a pure legal perspective, the trial Court's uncritical admission of irrelevant and prejudicial information about Ms. Gladue, the victim – that she was “Native”, that she had engaged in sexual activity for payment on a prior occasion, that she had been drinking with the accused prior to her death - coupled with the inadequacy of its jury charge regarding the law of consent to sexual activity, constituted clear errors in law.

88. Along with another not-for-profit advocacy group IAAW intervened to appeal the acquittal, arguing that the errors in application of the law resulted in the dehumanizing of Ms. Gladue without consideration for her dignity, her culture, family or community.⁸²

89. From a social justice, human rights perspective, the manner in which Ms. Gladue was portrayed throughout the trial – by all active participants in the trial ie. the Crown, defence, and the trial judge - was a reflection of the pervasive racist and sexist myths about Indigenous women that too often make their way into legal proceedings.⁸³



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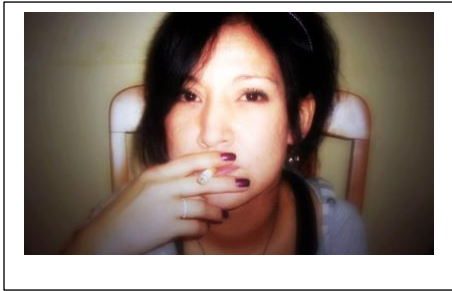
90. IAAW submits that the most horrific aspect of injustice in this case was the ultimate violation of Ms. Gladue within the Courtroom. During the trial an application was made by the Crown to tender her preserved pelvis and reproductive organs as evidence. The presiding Justice allowed this application to be made, and ultimately decided that her body parts were indeed admissible. Judge Graesser's *voir dire* decision resulted in the presentation of Ms. Gladue's actual body tissue in the courtroom - apparently a first in Canada's judicial history.

91. At the Calgary Institutional Hearings IAAW requested that Justice Graesser's *voir dire* decision to admit Ms. Gladue's pelvis into evidence be tendered as an exhibit to this Inquiry, Exhibit #53.⁸⁴

92. Cross-examination questions were posed to each of the witnesses whether, in their opinion, the effect of introducing Ms. Gladue's preserved pelvis into court in the manner in which it was presented, and discussed, dehumanized Ms. Gladue. Witnesses were asked if these actions were a violation of basic fundamental Indigenous beliefs; and if the fact that Ms. Gladue's mother was in court when this happened, without any prior notice – they perceived these actions to have been a manifestation of violence against Indigenous women. Finally, witnesses were asked, whether or not if by virtue of the fact that the rules of admissibility of evidence allowed for this to happen once, and that it could thus happen again– was this also a manifestation of violence against Indigenous women. The expert witnesses on the panel unanimously answered these questions in the affirmative.⁸⁵

93. The witnesses before the Inquiry were also asked about their knowledge of the reaction of Indigenous people nationally about what happened with Ms. Gladue, and the way in which she was treated in the Barton trial. Sandra Montour, from Six Nations shared that women gathered in protest in her community and nationally.⁸⁶ Nakuset commented that there were no words, and that her hope was that “the people involved in this are held accountable”. The outrage mobilized national collective protests against such normalization of continued violence against Indigenous women.

94. Cindy Gladue: Indigenous woman, mother, and victim - reduced to an object; dehumanized to a specimen of tissue, rendered admissible pursuant to the common law. Her preserved pelvis has never been returned to the family. Rather, it remains an exhibit in the Canadian criminal justice system, admitted by the Crown, representing the interests of society.



Photograph of Cindy Gladue

95. The criminal justice system steered so far from humanness in the Barton trial that it is unfathomable to think about the possibility that another woman's life-giving organs are presented as evidence in a public courtroom ever again. However, given that the criminal justice system operate within a system of justice based on stare decisis, we must consider this real possibility.

97. IAAW submits that this Inquiry ought to make note of the links between the incarceration of Ms. Cardinal during the Preliminary Inquiry in *Blanchard*, the humiliation and degradation of the complainant by the sitting judge in *Wagar*, and the dehumanizing treatment of Cindy Gladue by all actors in the trial process in *Barton*.

98. IAAW must make the following specific recommendations:

Recommendation #16: To ensure that the human dignity and rights of no Indigenous woman is ever violated as was Cindy Gladue, we recommend that all governments undertake law reform to prevent the use of human organs or tissue as real evidence in criminal prosecutions;

Recommendation #17: That pursuant to the authority granted to this Commission by article 2(2)(b) of the Alberta Order in Council 232/2016, the Alberta Crown Prosecution Services be advised that any proposed future application to admit the preserved pelvis of Cindy Gladue in the re-trial of Bradley Barton for the murder or death of Cindy Gladue, shall be reported to the



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authorities by this Commission as a gross violation of fundamental Indigenous beliefs;

Recommendation #18: That pursuant to article 2(2)(c) of the Alberta Order in Council 232/2016 such actions would constitute misconduct on the part of Alberta Prosecution Services;

99. In response to the manner in which Ms. Gladue was treated by the criminal justice system, IAAW founder Muriel Stanley Venne observes that: “[the] courts have never been kind or considerate of Indigenous women. The trust that should be a cornerstone of this relationship has been mostly absent and often violent.”⁸⁷

100. As a response to the Court’s admission of Ms. Gladue’s body tissue into Court, and the acquittal of Bradley Barton for her death, IAAW, along with the support of several community-based service providers, organizations, and at least one First Nation government unanimously passed a resolution calling for “a full review of the Criminal Justice System’s treatment of Aboriginal people and in particular Aboriginal women and girls in Canada.”⁸⁸

101. With this widespread community and political leadership support IAAW makes the following key recommendations:

Recommendation #19: That an Indigenous Justice Inquiry be struck in Alberta to examine the treatment of Indigenous people involved in the criminal justice system as victims or accused, with specific attention to the experience of Indigenous women;

Recommendation #20: That an Indigenous Human Rights Commission be formed, comprised of Indigenous human rights groups and organizations led by Indigenous women, with a monitoring function to track Indigenous person’s interactions within the criminal justice system;



102. The persistence and pervasiveness of myths, stereotypes, and outright racist attitudes toward Indigenous women continue not only to inform the attitudes and actions of many perpetrators of sexual violence, but also to infuse the treatment of Indigenous women by all players in the criminal justice system. As recognized by the Canadian Judicial Council’s Ethical Principles for Judges,

“Judges ... should make every effort to recognize, demonstrate sensitivity to and correct such attitudes.”⁸⁹ Others in the justice system, including Crown prosecutors and defence counsel, are also susceptible to stereotypical thinking about complainants in sexual assault cases.⁹⁰

103. To address this reality, IAAW makes the following recommendations:

Recommendation #21: That all provincial and territorial Crown Prosecutors, and provincial and superior court judges complete mandatory training on the human response to sexual assault victimization including a component addressing the unique circumstances pertaining to Indigenous victims, with such educational programs to be developed in consultation with appropriate Indigenous representatives or agencies.

Recommendation #22: That government agencies such as Crown Prosecutions in the provinces and territories conduct mandatory reviews of existing processes and procedures with a view to reducing systemic discrimination and prejudicial policies which may violate the rights and beliefs of Indigenous peoples. Policy amendments to include specific content regarding Indigenous complainants developed in collaboration with Indigenous organizations in the provinces and territories;

Corrections

104. Over-policing and overrepresentation in Corrections is a product of the same root causes



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that lead to Indigenous women's disproportionate experiences of violent victimization.

105. There are clear links between poverty and incidents of crime as 80% of Canadian women are incarcerated for poverty-related crimes.⁹¹ Lack of resources to cover basic living costs contributes to the likelihood that poverty-related crimes will occur and, indeed, conviction and incarceration rates for Indigenous women for poverty-related crimes do occur, particularly for those with dependents. According to reported research 39% of women are incarcerated for failure to pay a fine and 70% of incarcerated women are single mothers.⁹²

106. Indigenous women are said to be overrepresented in Corrections for many of the same reasons they face heightened experiences of violent victimization. In the words of the Inter-American Human Rights Commission on Missing and Murdered Indigenous Women in BC (IACHR), “[t]he story of how so many Aboriginal women came to be locked up within federal penitentiaries is a story filled with a long history of dislocation and isolation, racism, brutal violence as well as enduring a constant state of poverty.”⁹³

107. In its work the Truth and Reconciliation Commission reports that over-incarceration and over-victimization of Aboriginal Peoples illustrates Canada's racism legacy of colonization that embedded systemic discrimination that took many forms such as forced removal from lands, outlawing of cultural and spiritual law, practices and ceremonies, the residential schools and child-welfare approaches that result in physical and cultural dislocation, and that continue to expose too many women to physical, emotional, psychological and sexual abuse.⁹⁴

108. The Supreme Court of Canada has taken judicial notice of the widespread issue of systemic discrimination, which results in the overrepresentation of Indigenous peoples in prisons.⁹⁵

109. Indigenous women suffer most from disproportionate rates of incarceration, harsher conditions, and longer and more strict sentences, which compelled the Truth and Reconciliation Commission to “call upon federal, provincial, and territorial governments to commit to eliminating the overrepresentation of Aboriginal Peoples in custody over the next decade.”⁹⁶



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110. Sixty-three percent of all incarcerated women in Canada are Indigenous.⁹⁷ Amongst those serving two years or more, the numbers have increased by 85.7% over the past decade.⁹⁸ In 2008-2009 Indigenous female youth were 6% of the Canadian female population yet 44% of the female youth in custody. “The rate at which Aboriginal women are over-represented in Canadian institutions of incarceration is higher than the rate of overrepresentation for Aboriginal men if national figures are used as the base.”⁹⁹ Indigenous women are more likely to be incarcerated than sentenced to alternative measures.¹⁰⁰

111. While the crisis of overrepresentation has been recognized in *Gladue*¹⁰¹ and *Ipeelee*¹⁰² since these rulings, the percentage of Indigenous girls in prison has steadily been on the rise.¹⁰³ Even with this dire statistical profile of imprisonment, these numbers may not capture the full extent of the crisis produced by assumptions of criminality among Indigenous women in Canada.¹⁰⁴

112. The average woman in prison is 27 years old with limited education and few employment opportunities. Many provide the sole support to their children, and have left homes to escape violence.¹⁰⁵ In 2008 it was reported that at the Calgary Remand Centre there are three women to a cell for as long as 23 hours per day; that there are lengthy wait lists for addictions treatment beds, a serious affordable housing shortage and major disconnects between justice systems and community-based resources.¹⁰⁶ Federally sentenced Aboriginal women prisoners experience sexual and physical assault as well as emotional and physical abuse as part of their imprisonment.¹⁰⁷

113. In addition to the base numbers of incarcerated Indigenous women, their opportunities for reintegration are limited. Indigenous women are routinely classified as higher security risks than non-Indigenous women in prison and around half of women classified as maximum-security prisoners are Indigenous.¹⁰⁸ This classification has the effect of restricting program eligibility or parole.¹⁰⁹

114. For example, a healing lodge was established by Corrections Canada in order to address the unique needs of Indigenous women in prison. However, 90% of Indigenous women were unable to



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access the lodge because of their risk classification and admission criteria. This exclusion is a “double form of punishment”¹¹⁰ because Indigenous women are denied their freedom and access to culture.

115. Through its “Esquao Firekeeper’s group” and “Kookum’s Services,” IAAW provides support to Indigenous women in federal institutions or leaving Corrections in Edmonton. Clients have shared that having culturally relevant spiritual and elder support while incarcerated contributes to the likelihood of addictions recovery, healthy parenting once released, assistance with housing, and reconnection with Indigenous culture – all which are identified as essential to recovery and reintegration.



IAAW Elder and Vice-President Marggo Pariseau with Indigenous Youth

116. Indigenous women are more likely to be denied parole and serve a longer portion of their sentence in custody once granted parole and are more likely to have their parole revoked for technical reasons.¹¹¹ This ultimately impacts women’s reintegration into the community and the cycle of incarceration repeats.

117. In order to address the over-representation of our women as accused and in Corrections IAAW makes the following recommendations:

Recommendation #23: That the provincial ministries of justice review and amend provincial victims of crime legislation, and related justice policies and procedures with view to addressing the over-representation of Indigenous women as accused;

Recommendation #24: That the Minister of Justice (Canada) implement necessary amendments to the Criminal Code which will enable a judge, when



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sentencing an Indigenous accused when the Court believes it is warranted, to deviate from sentencing precedent, for reasons relating to the unique circumstances of the offender;

Recommendation #25: That the Minister of Justice (Canada) amend s. 515(10) of the Criminal Code is amended to enable a judge, when considering the release or detention of an Indigenous offender, that his or her unique circumstances as an Indigenous person shall be taken into consideration, ie. the “Gladue factors”;

Recommendation #26: That provincial and federal governments support Indigenous community-developed and led training, counselling, and educational opportunities, including life skills coaching for incarcerated Indigenous women to manage transitions into the community on release;

Recommendation #27: That provincial and federal governments support the integration of Elders and accommodate culturally-relevant programming and ceremony into the programs available to Indigenous women in correctional facilities.

Implementation

118. In the words of Dr. Cindy Blackstock, and IAAW’s Founder, Muriel Stanley-Venne, “enough tinkering”. There must be reform in ways that matter to all Indigenous peoples, including women and girls. Violence against us can no longer, should no longer, be normalized.

119. IAAW has made numerous concrete recommendations within these submissions, which can be acted upon in reasonably short time frames by all levels of government – federal, provincial,



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municipal, Indigenous. At the same time, we acknowledge that for some of the more complex problems, this will require complex solutions involving Indigenous people in a meaningful way.

120. The national tragedy of missing and murdered Indigenous women and girls in this country demands that jurisdictional debates and indecision not be the concern of this Inquiry. There are numerous examples of cross-jurisdictional initiatives and action plans to address violence against Indigenous women and girls, including access to government services, such as safe housing, culturally appropriate health, mental health, addictions and trauma services, and programming for Indigenous men to help break and prevent cycles of violence.



IAAW Founder Muriel Stanley Venne (right) and Community Leaders

121. In order to address this tragedy, factors contributing to the high levels of violence must be thoroughly understood and specifically addressed by all levels of government – federal, provincial, municipal, and Indigenous. Government must acknowledge and take responsibility for the role that its institutions have and continue to play in the violation of the rights of Indigenous women and girls. Action plans need to be put in place, working in collaboration with Indigenous women and Indigenous-led organizations, to ensure the safety of our women and young girls.

121. When formulating solutions, it must be remembered that we are not a mono-culture “Indigenous people”.

122. Though there has been significant inquiries and studies by governmental and non-governmental organizations in an effort to understand and address the problem of violence against Indigenous women, the follow-up to recommendations that have been made has been limited.

123. With a view to supporting this Inquiry to hold government accountable, IAAW makes the following recommendations with respect to implementation:



Recommendation #28: That action plans be developed by specific federal departments in collaboration with and input from Indigenous women and families including: Crown-Indigenous Relations and Northern Affairs Canada, Indigenous Services Canada, Status of Women, Department of Justice (Canada), Public Safety Canada, RCMP to address the national tragedy of missing and murdered Indigenous women;

Recommendation #29: That action plans be developed within specific provincial departments in collaboration with and input from Indigenous women and families including in Alberta: Ministry of Justice and Solicitor General, Status of Women, Indigenous Relations, Children's Services, Municipal Affairs to address the national tragedy of missing and murdered Indigenous women;

Recommendation #30: That federal, provincial and municipal governments commit to multiple year funding in order to implement recommendations of this Inquiry;

Recommendation #28: That a federal-provincial-Indigenous advisory group be formed with a mandate to monitor and celebrate the implementation of Inquiry recommendations.

124. Like the 1996 Report of the Royal Commission on Aboriginal Peoples, like the Calls to Action of the Truth and Reconciliation Commission, and many other reports, commissions, and inquiries, IAAW is acutely aware that this Inquiry's recommendations will not be binding on governments, institutions, nor Canadians in general.



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125. IAAW understands that this Commission does not have the power or authority to direct government to make legislative or policy change. However, it is important, in fulfilling the mandate of this Inquiry to nonetheless identify and examine systemic causes of violence against Indigenous women and girls in Canada and to make recommendations for effective action. In this sense, we hope that this Inquiry, and its resulting recommendations can be a tool for such action.



IAAW Founder Muriel Stanley Venne

126. This Inquiry is not only about the law, it is also about political will. In the absence of adequate resources and political will to support mandatory implementation based on a strategic and integrated plan of action, outcomes will be piecemeal and fragmentary at best.

RESPECTFULLY SUBMITTED this 14th day of December, 2018.

Lisa D. Weber, Counsel
Institute for the Advancement of Aboriginal Women



End Notes

- ¹ National Inquiry Into Missing and Murdered Indigenous Women and Girls, *Our Women and Girls are Sacred*, 2017 at 29 online: <http://www.mmiwg-ffada.ca/files/ni-mmiwg-interim-report-en.pdf> [Inquiry report].
- ² IAAW uses the term 'Aboriginal' in this section to be consistent with terminology used in the Statistics Canada 2016 Census to refer to persons who identified as Aboriginal peoples of Canada: First Nation, Inuit, or Métis.
- ³ Statistics Canada, *Aboriginal Peoples Highlight Tables, 2016 Census, Aboriginal identity population by both sexes*, Catalogue NO 98-402-X2016009 (Ottawa: Statistics Canada 25 October 2017), online: <https://www12.statcan.gc.ca/census-recensement/2016/dp-pd/hltfst/abo-aut/index-eng.cfm>.
- ⁴ *Ibid.*
- ⁵ Statistics Canada, *Aboriginal Peoples Highlight Tables, 2016 Census, Aboriginal identity population by female*, Catalogue NO 98-402-X2016009 (Ottawa: Statistics Canada 25 October 2017), online: <https://www12.statcan.gc.ca/census-recensement/2016/dp-pd/hltfst/abo-aut/Table.cfm?Lang=Eng&T=102&S=88&O=A&RPP=9999>
- ⁶ Statistics Canada, *Women and the Criminal Justice System*, by Tina Mahony, Joanna Jacob & Heather Hobson, Catalogue No 89-503-X (Ottawa: Statistics Canada, 6 June 2017) at 22, online: <https://www150.statcan.gc.ca/n1/pub/89-503-x/2015001/article/14785-eng.pdf>.
- ⁷ Emily Snyder, Val Napoleon & John Borrows, "Gender and Violence: Drawing on Indigenous Legal Resources" (2015) 48 UBC L Rev 593 at 602, online: https://www.cerp.gouv.qc.ca/fileadmin/Fichiers_clients/Documents_deposes_a_la_Commission/P-275.pdf. See also Manitoba, Aboriginal Justice Inquiry of Manitoba, *The Justice System and Aboriginal People*, vol. 1 of *Report of the Aboriginal Justice Inquiry of Manitoba* (Winnipeg: Queen's Printer, 1991) at 475-87. (Chairs: A.C. Hamilton and C.M.Sinclair), online: <http://www.ajic.mb.ca/volumel/chapter13.html>. [MJJ]
- ⁸ Statistics Canada, *Violent Victimization of Aboriginal women in the Canadian provinces, 2009*, by Shannon Brennan, Catalogue No 85-002-X (Ottawa: Statistics Canada 17 May 2011 at 7 and 14, online: <https://www150.statcan.gc.ca/n1/en/pub/85-002-x/2011001/article/11439-eng.pdf?st=TfbAgs7-> [Brennan].
- ⁹ Statistics Canada, *Homicide in Canada, 2014*, by Zoran Miladinovic and Leah Mulligan, Catalogue No 85-002-X (Ottawa: Statistics Canada, 25 November 2015), online: <https://www150.statcan.gc.ca/n1/en/pub/85-002-x/2015001/article/14244-eng.pdf?st=ppXIzili>.
- ¹⁰ Maryanne Pearce, *An Awkward Silence: Missing and Murdered Vulnerable Women and the Canadian Justice System* (2013) [unpublished, archived at University of Ottawa Research], online: file:///Users/kristamcfadyen/Downloads/Pearce_Maryanne_2013_Thesis.pdf [Pearce]
- ¹¹ Statistics Canada, *Measuring Violence Against Women: Statistical Trends 2006*, Catalogue No 85-570-XIE (Ottawa: Statistics Canada, October 2006) at 39, online: <http://publications.gc.ca/collections/Collection/Statcan/85-570-X/85-570-XIE2006001.pdf>.
- ¹² According to Brennan (*supra* note 8 at 9) the racial identity is unknown for about half of all homicides reported to police which means that the Statistics Canada Homicide Survey undercounts the true extent of homicide rates of Aboriginal people.
- ¹³ Canada, Native Women's Association of Canada, *What Their Stories Tell Us: Research Findings from the Sister's in Spirit Initiative*, n.d. at 1, online: <https://nwac.ca/wp-content/uploads/2015/07/2010-What-Their-Stories-Tell-Us-Research-Findings-SIS-Initiative.pdf> [NWAC].
- ¹⁴ Pearce *supra* note 10 at 2, 22.
- ¹⁵ Royal Canadian Mounted Police, *Missing and Murdered Aboriginal Women: A National Operational Overview*, 2014 at 7, online: <http://www.rcmp-grc.gc.ca/en/missing-and-murdered-aboriginal-women-national-operational-overview>.
- ¹⁶ NWAC *supra* note 13 at 26.
- ¹⁷ *Supra* note 7 at 601. (Snyder)
- ¹⁸ Jodi-Anne Brzozowski, Andrea Taylor-Butts & Sara Johnson "Victimization and Offending among the Aboriginal Population in Canada" (2006) 26:3 *Juristat* (Ottawa: Statistics Canada) at 6, online: <http://caid.ca/Juristat2006v26n3.pdf>.
- ¹⁹ Brennan *supra* note 8.
- ²⁰ Professeure Renée Brassard presented these findings at the Inquiry on September 20, 2018.
- ²¹ *Committee on the Elimination of Discrimination against Women under article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women*, (Geneva: Office of the High Commission of Human



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- Rights, United Nations Convention on the Elimination of All Forms of Discrimination Against Women, 2015), online: https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/CAN/CEDAW_C_OP-8_CAN_1_7643_E.pdf. [CEDAW]. See also Jessica Riel-Johns, “Understanding Violence Against Indigenous Women and Girls in Canada” in D. Memee Lavell-Harvard & Jennifer Brant, eds, *Forever Loved: Exposing the Hidden Crisis of Missing and Murdered Indigenous Women and Girls in Canada* (Bradford: Demeter Press, 2016) 34 for an overview of reports that address violence against Indigenous women in Canada and suggests that racialized and sexualized violence is a direct result of the dismantling of Indigenous matrilineal societies and a deliberate attack on Indigenous nations, a form of cultural genocide (Appendix II)
- ²² CEDAW *supra* note 21 at 10.
- ²³ Ermine Willie; Raven Sinclair; Bonnie Jeffery, Indigenous Peoples Health Research Centre, *The Ethics of Research Involving Indigenous Peoples: Report of the Indigenous Peoples Health Research Centre to the Interagency Advisory Panel on Research Ethics*. July 2004, at 17, online: http://iphrc.ca/pub/documents/ethics_review_iphrc.pdf.
- ²⁴ *Ibid* at 12.
- ²⁵ *Ibid* at 12.
- ²⁶ *Ibid* at 13.
- ²⁷ *Ibid* at 12.
- ²⁸ *Ibid* at 12.
- ²⁹ Researchers such as Brant, Castellano, Davis & Reid, Denzin & Lincoln, Smith, Steinhauer, Weber-Pillwax, Wilson, Smith, cited in *ibid* at 13 identify insider research that is conducted by the members of the targeted or insider group.
- ³⁰ *Inquiry Report supra* note 1 at 30.
- ³¹ R v Blanchard, Preliminary Inquiry Transcript, ABPC, 2015, E-File No ECP17BLANCHARDL [Blanchard Preliminary Inquiry Transcript] as cited in Institute for the Advancement of Aboriginal Women and the Women’s Legal Education and Action Fund, *Independent Review of Circumstances Surrounding the Treatment of “Angela Cardinal” in R v Blanchard*, 15 October 2017, online: <https://www.leaf.ca/wp-content/uploads/2017/11/Cardinal-Inquiry-IAAW-and-LEAF-Final-Submission-Oct-15.pdf>.
- ³² R v Wagar, Provincial Court of Alberta at Calgary bearing Docket No. 130288731P1 [Wagar].
- ³³ R v Barton, 2017 ABCA 216 [Barton].
- ³⁴ Institute for the Advancement of Aboriginal Women, *Increasing Safety for Aboriginal Women: Community Action Document*, March 2014, online: <http://www.iaaw.ca/wp-content/uploads/2016/11/Gathering-Action-Document.pdf>.
- ³⁵ Of particular note. former Detective Freeman Taylor of the Edmonton Police Service and Inspector Dennis Fraser, were instrumental in solving the murder of Joyce Cardinal. In 1993, Ms. Cardinal was beaten then set on fire and lived for only ten days following that vicious assault. Further, IAAW, in partnership with the Aboriginal Commission on Human Rights & Justice, honoured former RCMP officer Robert Urbanowski with a social justice award for his role in solving the murder of Helen Betty Osborne.
- ³⁶ CEDAW *supra* note 19 at 30 summarizes reports describing police treatment of Indigenous women in Canada.
- ³⁷ Numerous reports relay that police delay investigations, mishandle, or neglect to coordinate with other policing bodies. See: Amnesty International, *Stolen Sisters: A Human Rights Response to Discrimination and Violence Against Indigenous Women in Canada*, (Amnesty International: 2004), online: <https://www.amnesty.ca/sites/amnesty/files/amr200032004enstolensisters.pdf> [Amnesty International Report]. Human Rights Watch, *Those Who Take Us Away: Abusive Policing and Failures in Protection of Indigenous Women and Girls in Northern British Columbia Canada*, (Human Rights Watch: 2013), online: http://www.hrw.org/sites/default/files/reports/canada0213webwcover_0.pdf, [Human Rights Watch (HRW) Report]; Canadian Feminist Alliance for International Action (FAFIA), *Murders and Disappearances of Aboriginal Women and Girls in Canada*, at 22, online: <http://www.fafia-afai.org/wp-content/uploads/2014/09/6-2013IACHRIBriefingPaperMarch-5.pdf>
- ³⁸ The Honourable Wally Oppal, *Forsaken: The Report of the Missing Women Commission of Inquiry*, (British Columbia: Missing Women Commission of Inquiry, 2012) at 15, online: <http://www.missingwomeninquiry.ca/wp-content/uploads/2010/10/Forsaken-Vol-1-web-RGB.pdf> found that both the RCMP initiation and conduct of investigations into the murdered and missing women in British Columbia were filled with “gross systemic inadequacies” and amounted to “a blatant failure.” For example, police often regard suspicious deaths as natural or accidental though they are considered suspicious by family or community members.
- ³⁹ Institute for the Advancement of Aboriginal Women, *Increasing Safety for Aboriginal Women: Gathering Report*, January 21/22, 2014, online: <http://www.iaaw.ca/wp-content/uploads/2016/11/Increasing-Safety-for-Aboriginal-Women-FINAL-SUBMISSIONS-TO-THE-NATIONAL-INQUIRY-ON-MISSING-AND-MURDERED-INDIGENOUS-WOMEN-AND-GIRLS>



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[Gathering-Report.pdf](#) reports the perception that police services are not trained to support community members but to enforce their laws.

⁴⁰ *Supra* note 38.

⁴¹ Melanie Randall, “Equality Rights and the Charter: Conceptualizing State Accountability for Ending Domestic Violence” in Fay Faraday, Margaret Denike & M. Kate Stephenson, eds, *Making Equality Rights Real: Securing Substantive Equality under the Charter* (Toronto: Irwin Law Inc., 2006) at 298 (emphasis in original), online:

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1473163 [Randall] cites examples of the deaths of Arlene May and Gillian Hadley who, in separate instances, were killed by their male partners after repeatedly seeking intervention and protection from the police and criminal justice system.

⁴² *Randall ibid* at 298 citing 2002 Ontario Death Review Committee Annual Report that discussed common risk factors that could successfully predict domestic homicide thus augmenting the failure of the state to react given the known likelihood of death.

⁴³ Pamela Palmater, “Shining Light on the Dark Places: Addressing Police Racism and Sexualized Violence against Indigenous women and Girls in the National Inquiry,” (2016) 28 Can J of Women & L 283 (Appendix)

⁴⁴ *Randall supra* note 41 at 293 discusses limitations of equality protection in the US such as the failure to criminalize private violence such as the violence inflicted in freed blacks in the wake of the civil war.

⁴⁵ *Randall, supra* note 41.

⁴⁶ Canadian Human Rights Commission, *Protecting Their Rights: A Systematic Review of Human Rights in Correctional Services for Federally Sentenced Women* (Ottawa: Minister of Public Works and Government Services Canada, 2003) at page 28, online: Canadian Human Rights Commission <<http://www.chrc-ccdp.ca/eng/content/protecting-their-rights-systemic-review-human-rights-correctionalservices-federally>>.

⁴⁷ Crimes of Desperation: The Truth About Poverty-Related Crime, March 2008, online:

<http://www.calgaryunitedway.org/images/uwca/our-work/communities/public-policy-research/Crimes%20of%20Desperation%20Final%20mar08.pdf> [Crimes of Desperation].

⁴⁸ Andrea Huncar, “Indigenous Women Nearly 10 Times More Likely to be Street Checked by Edmonton police”, *CBC News* (June 27, 2017) online: <https://www.cbc.ca/news/canada/edmonton/street-checks-edmonton-police-aboriginal-black-carding-1.4178843>.

⁴⁹ Miranda Watters, *An Analysis of the Data collected on Street Checks in Edmonton Between the years 2009 and 2016 inclusive*. (B. June 22, 2017) Online:

https://d3n8a8pro7vhmx.cloudfront.net/progressalberta/pages/352/attachments/original/1498688518/An_Analysis_of_the_Data_Collected_On_Street_Checks_in_Edmonton.pdf The analysis shows that Aboriginal people

experience the greatest exposure to street checks in Edmonton. An analysis of the breakdown of the people street checked according to race/ethnicity and sex between 2012 – 2016 shows that Aboriginal and Black people were street checked an average of 6.5 and 2.6 more times than White people respectively

⁵⁰ *R v Brown* [2003] OJ No 1251.

⁵¹ Cited in Edmonton Police Commission, *City of Edmonton Street Checks Policy and Practice Review*. (June 2018), online:

<https://www.edmontonpolicecommission.com/wp-content/uploads/2018/06/EPS-Street-Check-Study-Final-REDACTED.pdf>.

⁵² Security (Commission des droits de la personne et des droits de la jeunesse, 2011; Ontario Human Rights Commission, 2003).

⁵³ *Supra* note 44 (EPC).

⁵⁴ Patricia A. Monture, *Women and Risk: Aboriginal Women, Colonialism and Correctional Practice* (Toronto: Inanna Publications and Education Inc., 2009) at 418 online:

<https://cws.journals.yorku.ca/index.php/cws/article/view/8068/7248> [Monture].

⁵⁵ *CEDAW supra* note 19.

⁵⁶ Cited in *Amnesty International Report supra* note 37.

⁵⁷ Alysia Wright and Canadian Research Institute for Law and the Family. *Access to Justice in Indigenous Communities: An Intercultural Strategy to Improve Access to Justice*, (May 2017) Online:

<file:///G:/Access%20to%20Justice%20in%20Indigenous%20Communities%20-%20May%202017.pdf>.

⁵⁸ “Greyhound Canada to End Bus Service in Western Provinces”, *The Canadian Press* (July 9, 2018), online:

<https://www.cbc.ca/news/business/greyhound-cancellations-alberta-manitoba-saskatchewan-british-columbia-1.4739459>

⁵⁹ *R v Blanchard* 2016 ABQB 706 [Blanchard].



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⁶⁰ See, for example, *Blanchard Preliminary Inquiry Transcript*, *supra* note 31 at 697, line 26.

⁶¹ *Blanchard Preliminary Inquiry Transcript* *supra* note 31 at 638, lines 11-12.

⁶² *Criminal Code*, RSC 1985, c C-46, s 545:

545 (1) Where a person, being present at a preliminary inquiry and being required by the justice to give evidence ...

(b) having been sworn, refuses to answer the questions that are put to him, without offering a reasonable excuse for his failure or refusal, the justice may adjourn the inquiry and may...commit the person to prison for a period not exceeding eight clear days or for the period during which the inquiry is adjourned, whichever is the lesser period.

⁶³ *Blanchard Preliminary Inquiry Transcript*, *supra* note 31 at 640, lines 22-23.

⁶⁴ *Ibid* at 676, line 13

⁶⁵ *Ibid* at 499, line 41 to 500 line 1. The duty counsel who was brought in to represent Ms. Cardinal failed to object to her incarceration at the outset, instead simply requesting that she be placed in a medical unit. See also Professor Alice Woolley, Letter to the Honourable Kathleen Ganley concerning “the Investigation by Roberta Campbell of the Incarceration of the Blanchard Complainant”, (14 June 2017) [*Woolley*].

⁶⁶ *Blanchard* *supra* note 26.

⁶⁷ *Ibid* at paras 221, 235.

⁶⁸ *Blanchard*, *supra* note 59 at para 387.

⁶⁹ RSA 2000, c V-3, s 2.

⁷⁰ *Canadian Victims Bill of Rights*, SC 2015, c 13, s 2. The *Bill* acknowledges that consideration of the rights of victims is in the interest of the proper administration of justice and legislates the rights of victims, including, the right to security, the right to be free from “intimidation and retaliation,” and the right “to convey their views about decisions to be made by appropriate authorities in the criminal justice system that affect the victim’s rights under this Act and to have those views considered.”

⁷¹ *R v Ipeelee*, 2012 SCC 13 at para 60 [*Ipeelee*].

⁷² Royal Commission on Aboriginal Peoples, *Report of the Royal Commission on Aboriginal Peoples* (Ottawa: Minister of Supply and Services, 1996), online: <https://www.bac-lac.gc.ca/eng/discover/aboriginal-heritage/royal-commission-aboriginal-peoples/Pages/final-report.aspx>. [RCAP] Truth and Reconciliation Commission of Canada, *Truth and Reconciliation Commission of Canada: Calls to Action* (Winnipeg: Truth and Reconciliation Commission of Canada, 2015) at 3-4, online:

http://www.trc.ca/websites/trcinstitution/File/2015/Findings/Calls_to_Action_English2.pdf [TRC].

⁷³ MJI *supra* note 7; Saskatchewan Commission on First Nations and Métis Peoples and Justice Reform, *Final Report: Legacy of Hope and Agenda for Change* (Saskatchewan: Commission on First Nations and Métis Peoples and Justice Reform, 2004) online: < <http://www.justice.gov.sk.ca/justicereform/> > [*Saskatchewan Commission Report*]. Hon Frank Iacobucci, *First Nations Representation on Ontario Juries: Report of the Independent Review Conducted by the Honourable Frank Iacobucci* (Ottawa: Ministry of the Attorney General, 2013), online: https://www.attorneygeneral.jus.gov.on.ca/english/about/pubs/iacobucci/First_Nations_Representation_Ontario_Juries.html [*Iacobucci Report*].

⁷⁴ CEDAW *supra* note 21.

⁷⁵ *Wagar* *supra* note 32.

⁷⁶ *R v Wagar*, *ibid*, *Trial Transcript*, (Alberta: June 5, 6, 10, August 1, 6, September 9, 2014) at 119, lines 10-11 [*Wagar Transcript*].

⁷⁷ *Notice to Justice Camp*, *ibid* note 5, at 3; *R v Wagar*, *supra* note 4, at 407, lines 28-29.

⁷⁸ *R v Wagar*, *supra* note 33, *Trial Transcript*, (Alberta: June 5, 6, 10, August 1, 6, September 9, 2014), at page 432, lines 5 and 16, page 433, line 20, page 437, line 9, page 442, line 41, page 443, line 6, page 446, line 41, page 450, line 34 [*Wagar Transcript*].

⁷⁹ Submission of the Intervener Coalition, Canadian Judicial Council in the Matter of an Inquiry Pursuant to S. 63(1) of the *Judges Act* Regarding Justice Robin Camp, August 16, 2016, at para 20 [*Submission of the Intervener Coalition*] at para 50.

⁸⁰ MJI *supra* note 7 at c 4.

⁸¹ *Barton* *supra* note 33.

⁸² *R v Barton*, 2016 ABCA Court of Appeal File Number #1503 0091A, 2016 [*Factum of the Joint Intervenors*].



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- ⁸³ For commentary, see Doenmez, Caroline Fidan Tyler. “The Unmournable Body of Cindy Gladue: On Corporeal Integrity and Grievability” in D. Memee Lavell-Harvard & Jennifer Brant, eds, *Forever Loved: Exposing the Hidden Crisis of Missing and Murdered Indigenous Women and Girls in Canada* (Brandford, ON: Demeter Press, 2016) 111 (Appendix).
- ⁸⁴ *R v Barton* 2015 ABQB 159 [voir dire].
- ⁸⁵ MMIWG Inquiry, *Institutional Hearings on Government Services*, Part II, Vol. V, Transcript, pp 11-16.
- ⁸⁶ Anissa Calma-Brown, “Who is Cindy Gladue?: Supreme Court Takes up Controversial Acquittal of her Accused Killer”, National Post (8 March 2018), online: <https://nationalpost.com/news/canada/supreme-court-of-canada-to-hear-appeal-of-acquitted-ontario-truck-driver>.
- ⁸⁷ Institute of Advancement for Aboriginal Women, *Our Breaking Point: Canada’s Violation of Rights in Life and Death*, 2015, online: <http://www.iaaw.ca/wp-content/uploads/2016/10/ourbreakingpoint-cindygladue.pdf>, at 22.
- ⁸⁸ Institute for the Advancement of Aboriginal Women (IAAW), Awo Taan Healing Lodge, Stolen Sisters and Brothers Awareness Movement, Aboriginal Commission on Human Rights and Justice (ABCCHR), and Mikisew Cree First Nation, *Resolution: To Seek Justice for Cindy Gladue*, 25 March 2015, at 1.
- ⁸⁹ *Ibid* at para 285, citing Canadian Judicial Council, *Ethical Principles for Judges*.
- ⁹⁰ Ruthy Lazar, “Negotiating sex: The legal construct of consent in cases of wife rape in Ontario, Canada” (2010) 22 Can J of Women & L 329; Elaine Craig, “The Ethical Obligations of Defence Counsel in Sexual Assault Cases” (2014) 51 Osgoode Hall LJ 427; Factum of the Intervenors Institute for the Advancement of Aboriginal Women and the Women’s Legal Education and Action Fund in *Factum of the Joint Intervenors supra* note 81.
- ⁹¹ *Crimes of Desperation supra* note 47.
- ⁹² According to *Crimes of Desperation supra* note 47, Alberta has the most charges and incarcerations for failure to pay a fine among Canadian provinces at a rate of 60.7 offences per 10,000 people in 2000. Based on Alberta’s current population this translates into 21,165 people being incarcerated annually for failure to pay a fine. Even if all of these crimes were at the level of a transit pass failure to pay offence, the provincial costs for the incarceration of offenders of this crime would be approximately \$29,631,000. Also found in program by Institute for the Advancement of Aboriginal Women, *Preparing Aboriginal Women for Success (PAWS): Linking Historical Trauma to Economic Prosperity*.
- ⁹³ The Inter-American Commission on Human Rights, *Missing and Murdered Indigenous Women in British Columbia, Canada*, (Organization of American States: 2014), online: <https://www.oas.org/en/iachr/reports/pdfs/indigenous-women-bc-canada-en.pdf>. [*IACHR Report*] at para 88.
- ⁹⁴ See *TRC supra* note 72 and *NWAC supra* note 13;
- ⁹⁵ The SCC documented this crisis in both *R. v. Gladue*, [1999] 1 SCR 688 [*Gladue*] and in *R. v. Ipeelee supra* note 71.
- ⁹⁶ *TRC supra* note 72.
- ⁹⁷ Canadian Human Rights Commission, Report on Equality Rights of Aboriginal People (Ottawa: Minister of Public Works and Government Services Canada, 2013) at page 54, online: Canadian Human Rights Commission <http://www.chrcccdp.gc.ca/sites/default/files/equality_aboriginal_report.pdf>.
- ⁹⁸ The Correctional Investigator Canada, Spirit Matters: Aboriginal People and the Corrections and Conditional Release Act (Ottawa: Minister of Public Works and Government Services Canada, 2012) at page 11, online: The Correctional Investigator of Canada <<http://oci-bec.gc.ca/cnt/rpt/pdf/oth-aut/oth-aut20121022-eng.pdf>>; Ed Buller, Aboriginal People, online: Smart Justice Network of Canada <<http://smartjustice.ca/smart-justice/aboriginal-people/>>
- ⁹⁹ *Monture supra* note 54 at 415.
- ¹⁰⁰ *CEDAW supra* note 21.
- ¹⁰¹ *Gladue supra* note 92 at para 65 stated
The unbalanced ratio of imprisonment for aboriginal offenders flows from a number of sources, including poverty, substance abuse, lack of education, and the lack of employment opportunities for aboriginal people. It arises also from bias against aboriginal people and from an unfortunate institutional approach that is more inclined to refuse bail and to impose more and longer prison terms for aboriginal offenders
- ¹⁰² *Ipeelee supra* note 71.
- ¹⁰³ Echoing findings with respect to sentenced admissions, the over- representation of Aboriginal persons in the remand admission statistics has become worse over the past decade. Thus, in 2004–05, 16% of remand provincial/territorial admissions were Aboriginal, rising to the 25% statistic reported a decade later.
- ¹⁰⁴ Indigenous women make up a larger proportion of the temporary detention population, including women in the “drunk tank” who are not charged.



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¹⁰⁵ Norma Greene, Profile of an Aboriginal Woman Serving Time in a Federal Institution (2013), online: Correctional Service Canada <<http://www.csc-scc.gc.ca/aboriginal/002003-1009-eng.shtml>>.

¹⁰⁶ *Crimes of Desperation supra* note 47.

¹⁰⁷ Statistics Canada, Women in Canada: A gender-based statistical report (Ottawa: Minister of Industry Canada, 2006) at page 195, online: Statistics Canada <<http://www.statcan.gc.ca/pub/89-503-x/89-503-x2010001-eng.htm>>.

¹⁰⁸ The Correctional Investigator Canada, Annual Report of the Office of the Correctional Investigator 2005-2006 (Ottawa: Minister of Public Works and Government Services Canada, 2006) at page 11, online: The Correctional Investigator of Canada <<http://www.ocibec.gc.ca/cnt/rpt/pdf/annrpt/annrpt20052006-eng.pdf>>.cnt/rpt/pdf/annrpt/annrpt20052006-eng.pdf>.

¹⁰⁹ *Supra* note 46.

¹¹⁰ <http://www.caefs.ca/wp-content/uploads/2013/05/FINAL-2015-Fact-Sheet-Indigenous-Women.pdf> at Robyn Maynard, “Criminal (in) justice: An interview with Gillian Balfour” Briarpatch Magazine (1 March 2011), online: Briarpatch Magazine <<http://briarpatchmagazine.com/articles/view/criminal-injustice>>.

¹¹¹ Correctional Service Canada, Demographic Overview of Aboriginal Peoples in Canada and Aboriginal Offenders in Federal Corrections, online: Correctional Service Canada <<http://www.csc-scc.gc.ca/aboriginal/002003-1008-eng.shtml>>.