



# BRITISH COLUMBIA ASSEMBLY OF FIRST NATIONS

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## BCAFN ANNUAL GENERAL MEETING

Resolution 22/2019

Musqueam Community Centre, Xʷməθkʷəṅəm, Vancouver, BC  
September 18-20, 2019

**SUBJECT: ADDRESSING THE CRIMINALIZATION AND OVER-INCARCERATION OF INDIGENOUS WOMEN AND GIRLS**

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**MOVED BY: GRAND CHIEF DOUG KELLY, PROXY, SOOWAHLIE INDIAN BAND**

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**SECONDED BY: CHIEF COUNCILLOR CHARLES MORVEN, GITWINKSIHLKW VILLAGE GOVERNMENT**

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**DECISION: CARRIED**

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### WHEREAS:

- A. Indigenous women represent almost 40% of all federally and provincially sentenced inmates while Indigenous female youth make 49% of all youth in custody, 12 times and 7 times higher respectively, than their non-Indigenous counterparts;
- B. The rates of incarceration for Indigenous women and girls continues to rise, with the number of provincially sentenced Indigenous women having risen by 66% and federally sentenced Indigenous women having risen by 51% in the ten-year period between 2007/08 and 2017/18. In BC alone, the number of federally and provincially sentenced women has risen by 40%. In 2016/17, Indigenous female youth represented 60% of admissions to youth custody;

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A handwritten signature in blue ink, appearing to read "Terry Teegee".

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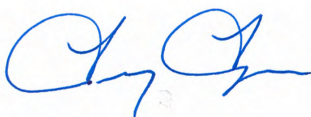
Terry Teegee, BC Regional Chief

- C. Indigenous women experience violent crime and spousal violence at rates 3x higher than non-Indigenous women and are 8x more likely to be victims of homicide. These high rates of violence inflicted upon Indigenous women directly correlate to the high numbers of federally sentenced women who are serving time for a violent offence – 71.9% of Indigenous women, compared to 46.3% of non-Indigenous women;
- D. Indigenous women are more likely than non-Indigenous women to plead guilty to an offence, even if it results in a lengthy or life-sentence, often to avoid a trial process which may be oppressive and biased, and/or to spare their children and families from the trial in cases of gendered violence. Indigenous women are in turn more likely to receive a life sentence and to serve longer sentences before being approved for parole;
- E. Gladue Reports are inconsistently ordered, resourced, and applied across provincial jurisdictions, limiting Indigenous women’s access to informed sentencing decisions;
- F. Indigenous women are more likely to be unfairly rated as high-risk on custodial rating scales, which do not adequately reflect the experiences of Indigenous peoples and are directly influenced by colonialism. These ratings translate into a greater likelihood of being deemed maximum-security offenders, which results in restrictions in programming, access to cultural supports in the institution, limitations in external visits, longer and more frequent rates of involuntary segregation, and harsher institutional living conditions. This in turn creates poorer physical and mental health outcomes for Indigenous women in prison;
- G. The criminalization and over-incarceration of Indigenous women and girls is a modern manifestation of the ongoing colonial oppression and marginalization of Indigenous women and girls.
- H. There is a responsibility for all to address the systemic racism and eliminate the gendered colonial violence perpetrated against Indigenous women, girls, and two-spirit, lesbian, gay, bisexual, trans, queer, questioning, intersex and asexual (2SLGBTQIA) people within Canada;
- I. The *United Nations Declaration on the Rights of Indigenous Peoples*, which the government of Canada has adopted without qualification, and has, alongside the government of BC, committed to implement, affirms:

**Article 21(2):** States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities.

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**Article 22 (2):** States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.

**Article 34:** Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards;

- J. The final report of the National Inquiry into Missing and Murdered Indigenous Women and Girls Calls for Justice, which “represent important ways to end the genocide and to transform systemic and societal values that have worked to maintain colonial violence” states:

5.14 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 2SLGBTQQIA people and to take appropriate action to address their over-incarceration;

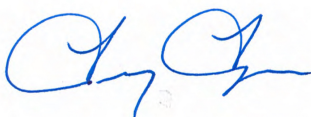
5.18 We call upon federal, provincial, and territorial governments to thoroughly evaluate the impacts of Gladue principles and section 718.2(e) of the Criminal Code on sentencing equity as it relates to violence against Indigenous women, girls, and 2SLGBTQQIA people;

5.21 We call upon the federal government to fully implement the recommendations in the reports of the Office of the Correctional Investigator and those contained in the Auditor General of Canada (Preparing Indigenous Offenders for Release, Fall 2016); the Calls to Action of the Truth and Reconciliation Commission of Canada (2015); the report of the Standing Committee on Public Safety and National Security, Indigenous People in the Federal Correctional System (June 2018); the report of the Standing Committee on the Status of Women, A Call to Action: Reconciliation with Indigenous Women in the Federal Justice and Corrections Systems (June 2018); and the Commission of Inquiry into certain events at the Prison for Women in Kingston (1996, Arbour Report) in order to reduce the gross overrepresentation of Indigenous women and girls in the criminal justice system;

- K. The criminal justice system at all levels has failed to protect and support Indigenous women and girls, including in the provision of culturally appropriate and gender-appropriate services, despite numerous calls for reform;
- L. There is an urgent need to address the ongoing systemic and colonial violence toward Indigenous women and girls, and the over-incarceration and criminalization of Indigenous women and girls.

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**Terry Teegee, BC Regional Chief**

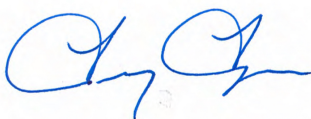
M. In 2019 the First Nations Justice Council held regional engagement sessions with First Nations in BC to form the basis of a BC First Nations Justice Strategy.

**THEREFORE BE IT RESOLVED THAT:**

1. The BCAFN Chiefs-in-Assembly calls upon Canada and British Columbia to wholly reform the federal and provincial justice systems in partnership with First Nations, including, but not limited to, the development of further alternatives to incarceration, recognition and resourcing for Indigenous justice models and courts, and the development of more Healing Lodges for Indigenous women under Section 84, *Corrections and Conditional Release Act (CCRA)*, in order to address the over-incarceration and criminalization of Indigenous women and girls;
2. The BCAFN Chiefs-in-Assembly calls upon the Correctional Service of Canada to ensure that Gladue Reports are not being used to determine custodial risk in the federal prison system;
3. The BCAFN Chiefs-in-Assembly calls upon Canada to ensure that the writing of Gladue Reports is consistently funded and resourced across all provinces, and to undertake a review of their application by the judiciary;
4. The BC Chiefs-in-Assembly calls upon Canada to amend the *Criminal Code* to allow judicial discretion in mandatory minimum sentences, and to determine a sentence that is based upon the specific circumstances of the offence and the individual;
5. The BC Chiefs-in-Assembly direct the BCAFN to work with the Union of BC Indian Chiefs, and the First Nations Summit as the First Nations Leadership Council, and the First Nations Justice Council, to develop a strategy for addressing the over-incarceration and criminalization of Indigenous women and girls, and ensure this strategy is included in the BC First Nations Justice Strategy; and
6. The BCAFN Chiefs-in-Assembly directs the First Nations Justice Council to provide an update on progress made to address the over-incarceration and criminalization of Indigenous women and girls at the BCAFN Special Chiefs Assembly in 2020.

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