



## BC ASSEMBLY OF FIRST NATIONS

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**BCAFN 18<sup>th</sup> ANNUAL SPECIAL CHIEFS MEETING**  
**March 9 & 10, 2022**  
**Online via Zoom**

**Resolution 08/2022**

**SUBJECT: ABOLITION OF THE DEPLORABLE AND UNCONSTITUTIONAL USE OF SOLITARY CONFINEMENT IN CARCERAL FACILITIES IN BC**

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**MOVED BY: CHIEF JEN THOMAS, TSLEIL-WAUTUTH NATION**

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**SECONDED BY: CHIEF LYNDA PRICE, ULKATCHO FIRST NATION**

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**DECISION: CARRIED**

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### WHEREAS:

- A. the criminal justice system is a state-created mechanism which upholds colonial laws, Western values, and attitudes and has historically and contemporarily been used to control, abuse, and traumatize Indigenous peoples in Canada, including the use of police forces to uphold colonial policies and violently suppress Indigenous assertions of Title and Rights, rampant discrimination undermining Indigenous and human rights in the judicial process, and the overrepresentation of Indigenous peoples in the deplorable conditions of the prison system;
- B. the 1996 Royal Commission on Aboriginal Peoples, the 2015 Truth and Reconciliation Commission (TRC) and the Supreme Court of Canada recognize that fundamental issues of historical and ongoing colonialism, residential schools, intergenerational trauma, systemic discrimination and racism, social and economic marginalization, destruction of culture, poverty and unequitable opportunity, are core causes of the overrepresentation of Indigenous people in the criminal justice system;

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**Certified copy of a resolution adopted on the 10<sup>th</sup> day of March 2022**

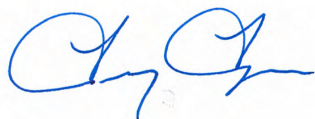
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**Terry Teegee, BC Regional Chief**

- C. despite government commitments to address this overrepresentation through the implementation of Gladue Principles into the justice system, on Dec 17, 2021, the Correctional Investigator announced that Indigenous women and men are overrepresented in federal corrections at a rate of 32%, with almost 50% of federally sentenced women being of Indigenous ancestry;
- D. solitary confinement is used in all prisons in Canada – federal (individuals sentenced to two years or more), provincial and territorial (under two years), and in youth detention. Solitary confinement, as defined by the United Nations, refers to any confinement, seclusion or segregation of individuals for 22 hours or more a day without meaningful human contact;
- E. solitary confinement disproportionately impacts Indigenous peoples, in particular Indigenous women and girls; has debilitating mental and physical repercussions; and is a re-traumatizing, abusive, and colonial form of control over Indigenous bodies that inhumanely limits their agency and freedom;
- F. the criminal justice system as a colonial institution has been weaponized to extinguish Indigenous women’s existence, and today creates and maintains violence against them. It has historically been used to oppress, abuse, and traumatize Indigenous women and girls through policing, racism, sexism and discrimination, including by the deployment of the RCMP to uphold genocidal colonial policies of forced assimilation and the removal of First Nations children from their families to Residential Schools, as well as by the continued use of police to displace children from their families and cultures through the child welfare system. Indigenous women experience the legacies of colonial violence through the criminal justice system as police violence, over-policing, under-protection, victim-blaming, stereotyping, a lack of will by authorities to believe Indigenous victims, bias in prosecution and judging, and gross overrepresentation and violence in incarceration;
- G. for the fiscal year 2020/21, 24% of individuals with at least one day of solitary confinement in BC provincial custody self-identified as Indigenous. On average, 28% of the 66 individuals in solitary confinement on any one day in BC provincial custody self-identified as Indigenous;
- H. *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:

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**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.

**Article 35:** Indigenous peoples have the right to determine the responsibilities of individuals to their communities.

**Article 40:** Indigenous peoples have the right to access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies for all infringements of their individual and collective rights. Such a decision shall give due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights.

**Article 43:** The rights recognized herein constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world.

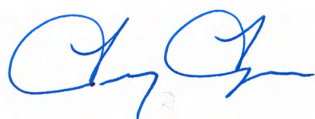
**Article 44:** All the rights and freedoms recognized herein are equally guaranteed to male and female indigenous individuals.

**Article 46 (3):** The provisions set forth in this Declaration shall be interpreted in accordance with the principles of justice, democracy, respect for human rights, equality, non-discrimination, good governance and good faith;

- I. emotional, cognitive, social and physical harms are widely documented and can develop with only a few days of solitary confinement. Solitary confinement results in increased suicides and attempted suicides, self-harm, and new and exacerbated mental illnesses;
- J. in 2019, the BC Court of Appeal ruled that prolonged solitary confinement is inhumane and unconstitutional, consistent with a United Nations Mandela rule which states that prolonged solitary confinement of >15 days is torture;
- K. in June, 2021, the BC Ombudsperson published a scathing [report](#) of the use of prolonged solitary confinement for youth in custody in BC which disproportionately impacted Indigenous youth, among them almost exclusively Indigenous and racialized girls, and recommended the establishment of meaningful alternatives to solitary confinement and significant law reform to address the shortcomings in the current legislative and regulatory framework;

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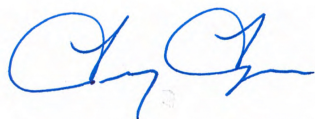
- L. abolition is an attainable shorter-term goal, but legislation is needed for the abolition of solitary confinement in provincial correctional centres and youth detention centres; and
- M. the BC First Nations Justice Strategy, signed March, 2020 and being led by the BC First Nations Justice Council, will address vast systemic injustices by specific actions to lessen the daily negative impacts of the justice system on Indigenous peoples.

**THEREFORE BE IT RESOLVED THAT:**

1. the BCAFN Chiefs-in-Assembly fully supports the abolition of solitary confinement in BC to ensure that all First Nations adults and youth have access to international human rights standards;
2. the BCAFN Chiefs-in-Assembly calls for the Province of BC to introduce legislation to abolish solitary confinement in line with BC and Canada's commitments under the *Declaration on the Rights of Indigenous Peoples Act*; and
3. the BCAFN Chiefs-in-Assembly directs the BCAFN Regional Chief and staff to work with the BC First Nations Justice Council, the Union of BC Indian Chiefs, and the First Nations Summit, to communicate critical concerns around solitary confinement to the government of BC and the government of Canada, including requesting that they adopt a distinctions-based approach that supports the unique rights, circumstances and needs of Indigenous peoples impacted by the use of solitary confinement, and publish accessible, annual data about the number of incarcerated individuals in BC who are placed in solitary confinement, the number of days they are incarcerated for, as well as disaggregated data that includes specifics for youth, Indigenous persons, persons of colour, and persons with mental health needs.

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