



Congress of Aboriginal Peoples: Submission to the Standing Committee on Public Safety and National Security

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SYSTEMIC RACISM IN POLICING IN CANADA

The Congress of Aboriginal Peoples (CAP) is one of five National Indigenous Representative Organizations recognized by the Government of Canada.

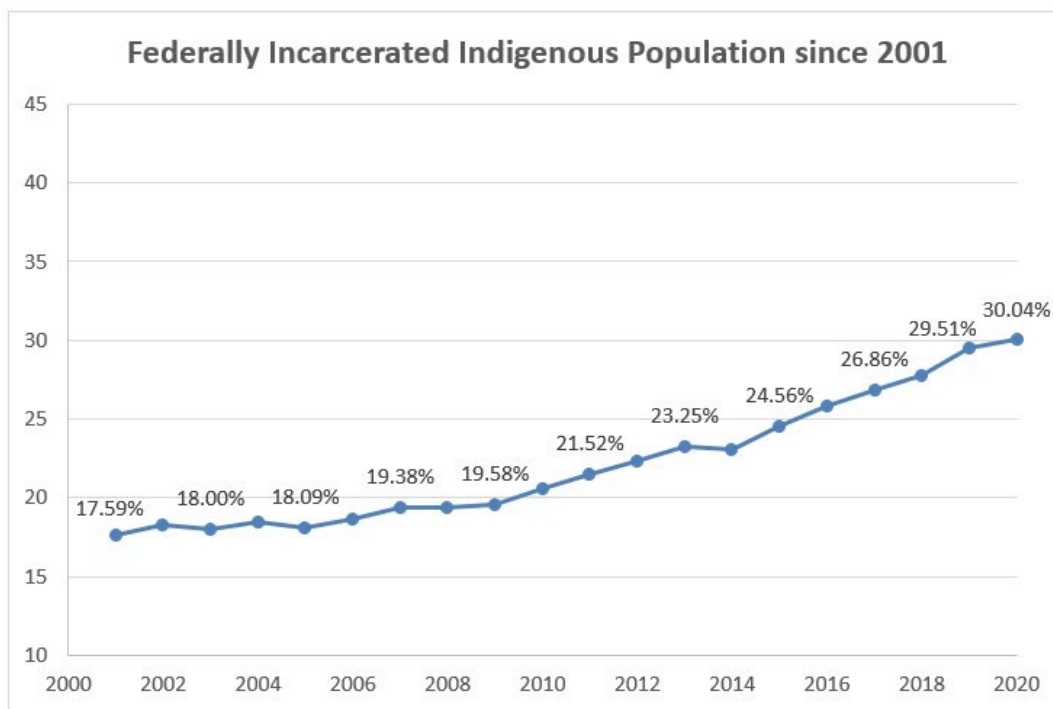
Founded in 1971 as the Native Council of Canada (NCC), the organization was originally established to represent the interests of Métis and non-status Indians. Reorganized and renamed in 1993, CAP has extended its constituency to include all off-reserve status and non-status Indians, Métis and Southern Inuit Indigenous Peoples, and serves as the national voice for its 10 provincial and territorial affiliate organizations.

Throughout our history, CAP has advocated as the voice of the “forgotten peoples”. Those who have been marginalized by government policies that separated families, labelled indigenous people by “status” and “non-status”, and divided communities who receive resources from communities who don’t.

CAP represents off-reserve and urban Indigenous people, who are disproportionately affected by discrimination in policing and the justice system. The issues of “Justice” and “Missing and Murdered Indigenous Women and Girls” are key policy areas in CAP’s implementation of our political accord with the Government of Canada.

The Congress of Aboriginal Peoples would be interested to send representatives to appear in person to discuss these issues before the SECU committee if invited to appear.

Key Issues:



Graph showing the percentage of the federally incarcerated population that identifies as Indigenous, each year since 2001.¹

Little has changed since 1977 when CAP, then known as the Native Council of Canada, remarked in its report on the Metis and Non-Status Indian Crime and Justice Commission:

“Native people are asking for responsibility for their own programs and their own people, yet there are very few Native controlled projects in the area of criminal justice.

“If a few of the studies which have been previously carried out are reviewed it is immediately apparent that many of the same recommendations are made over and over again, particularly those having to do with increased Native responsibility in Staffing and programming for Native people, even though it is recognized the Native people have special needs and interests.

¹ Office of the Correctional Investigator. [“Indigenous People in Federal Custody Surpasses 30%: Correctional Investigator Issues Statement and Challenge”](#) January 21, 2020

“It seems very often that policies are agreed to in principle, but not in practice and that reiterating the same solutions to old problems gives the impression that something is actually being done.”²

- Over-criminalization does not begin with policing. It begins with loss of culture, loss of lands, trauma, colonial education, child welfare services, unemployment, and poverty. Addressing these prior causes must be a part of any effort to address disparate treatment of Indigenous and non-Indigenous people in Canada.
- Indigenous peoples are treated differently by institutions such as the police, courts, and child welfare services³. They are more likely to be denied bail, spend more time in pre-trial detention, and are charged and sentenced more harshly⁴.
- Indigenous girls enter the criminal justice system from care facilities where they have been labeled as violent and remanded to custody.⁵
- While in custody, even though they enter programming more quickly, tend to be engaged and complete at higher rates, Indigenous offenders are released later and have their release revoked more often.⁶
- Even when risk factors such as poverty are considered, Indigenous identity remains “independently associated with incarceration, suggesting that policing practices or other aspects of the current criminal justice system may be partly responsible” for the over representation of Indigenous peoples in prison.⁷
- Mitigation of the impacts of systemic racism must occur at every stage, with alternatives offered and leadership from Indigenous communities put at the forefront of any reform

² (NCC, Metis and non-Status Indian Crime and Justice Commission report, 1977, 3-4)

³ Tauri, Juan M. & Porou, Ngati (2014) Criminal Justice as a Colonial Project in Settler-Colonialism, *African Journal of Criminology and Justice Studies*, 8 (1): 20-37; Bracken, Denis C., Deane, Lawrence & Morrissette, Larry (2009) Desistance and social marginalization: The case of Canadian Aboriginal offenders, *Theoretical Criminology*, 13 (1): 61-78.

⁴ Barker, Brittany., Alfred, Gerald Taiaiake., Flemming, Kim., Nguyen, Paul., Wood, Eva., Kerr, Thomas & DeBeck, Kora (2015) Aboriginal Street-involved Youth Experience Elevated Risk of Incarceration, *Public Health*, 129 (12): 1662-1668

⁵ Sikka, Anette, (2010). Indigenous Women and Girls in the Criminal Justice System Trafficking of Aboriginal Women and Girls in Canada, *Aboriginal Policy Research Consortium International (APRCi)*. 57 (2010): 201-231.

⁶ Annual Report of the Correctional Investigator of Canada, 2018-19

⁷ Dhillon, Jaskiran K. (2015) Indigenous girls and the violence of settler colonial policing, *Decolonization: Indigeneity, Education & Society*, 4 (2): 1-31.

efforts.

- This institutionalization of Indigenous peoples is part of a larger process of assimilation and control that fragments Indigenous communities and families and disrupts Indigenous identities, leading to loss of culture.⁸
- It is important to understand the role of the justice system in advancing colonial violence against Indigenous peoples and to situate the criminalization of Indigenous peoples within the processes of forcible assimilation.⁹
- The solution to high rates of Indigenous recidivism is to provide the means for offenders to regain their culture, heritage and spirituality and to provide them with the knowledge, training and life skills they need to thrive in Canadian society.
- Only properly-resourced and Indigenous-operated community programs will have the impact needed to “stem the tide” of Indigenous incarceration and recidivism.
- Indigenous women and girls are incarcerated at even higher rates than Indigenous men and boys. In addition, the criminal justice system fails to protect Indigenous women and girls from violent predators, including those within the justice system itself.
- Further research on the issue of peace bond abuse is needed. It seems likely that in some provinces, Indigenous ex-offenders are more likely than their non-Indigenous peers to be issued a peace bond upon release.
- The criminalization of Indigenous peoples is also part of a broader systemic process of institutionalization. Youth from the child welfare system are also at much greater risk of becoming involved with the juvenile justice system and this movement from one institution to another has been referred to as the ‘child-welfare-to-prison pipeline.’

⁸ Martel, Joane & Brassard, Renée (2008) Painting the Prison ‘Red’: Constructing and Experiencing Aboriginal Identities in Prison, *British Journal of Social Work*, 38 (2008): 340-361

⁹ De Finney, Sandrina. (2017). Indigenous girls’ resilience in settler states: Honouring body and land sovereignty. *Agenda*, 31(2), 10-21. doi:10.1080/10130950.2017.1366179; Dhillon 2015; Newell 2013

Recent CAP Activities in Justice:

- Outreach and advocacy on cases related to bias, deaths, and mistreatment in policing and incarceration.
- CAP reaches out to provincial and federal agencies to call for investigation and oversight into cases that have not received sufficient attention, where deaths have occurred due to police and institutional factors, and due to neglect and lack of appropriate programs.
- Examples include the cases of:
 - Curtis McKenzie
 - Chantel Moore
 - Rodney Levi
 - Benjamin Toutsaint
- In support of the implementation of the CAP-Canada political accord, CAP is creating a “Justice” and “MMIWG2S+” working group with CIRNA and Justice Canada to develop policy recommendations to support off-reserve and non-status Indigenous communities.
 - Through consultation with the justice committee, areas of concern identified in current policing conduct include bylaw enforcement, and private security company behaviour.
- Areas of study for this table may include:
 - Policing
 - Family law
 - Alternative sentencing
 - Community safety services
 - Mental health care supports

Recommendations:

- Require comprehensive data collection and publication of all police interactions, arrests, charges laid or dropped, convictions, and parole decisions, with emphasis on the identity of the individuals.
 - Ensure that data covers ethnicity, Indigenous identity, age, gender expression, and all other facts relevant to questions of bias.
 - Ensure that police, bylaw enforcement, and private security companies are included in data gathering activities.
- Ensure the following activities are handled by Crown attorneys with no prior connections to cases, who have received comprehensive training in Indigenous issues and history, rather than police or corrections staff:

- Laying charges
- Requesting a peace bond
- Bail hearings
- Implement the recommendations from RCAP, TRC and MMIWG – in particular:
 - Ensuring that programs are accessible regardless of Status, organizational membership, or residency.
 - Ensuring that Indigenous communities have a lead role in overseeing the work of police, directing family welfare organizations, and assuming responsibility for policing and community safety wherever possible.
 - Providing sustainable capacity-building funding for Indigenous communities to ensure their ability to administer and implement those programs.
- Provide sufficient resources for Indigenous community programs, and long-term sustainable capacity-building funding for off-reserve and urban Indigenous organizations.
- Implement the CAP-Canada Political accord with long-term sustainable funding. Direct CIRNA and Justice Canada to collaborate in addressing CAP PTO concerns on policing.

Conclusion:

The issues surrounding systemic racism in policing are not new. They have been identified in previous reports on multiple occasions, from the MMIWG inquiry, TRC report, Royal Commission on Aboriginal People, and earlier.

There is no lack of studies or recommendations, but there is an ongoing lack of action, in particular action to include the full scope of Indigenous peoples in the consultation process and implementation of reforms to justice, policing and support programs.