

## **Brief to the Standing Senate Committee on Human Rights: The Criminal Justice System Canadian Association of Social Workers – February 20 2019**

The Canadian Association of Social Workers (CASW) is the national association voice for the social work profession. The mission of CASW is to promote the profession of social work in Canada and advance social justice. As part of our mission, CASW aims to align the social work profession with the pursuit of social justice by focusing on the inherent dignity and worth of persons.<sup>1</sup> Thank you for inviting us to provide a social work perspective in relation to the criminal justice system and rehabilitation.

The first question posed by this committee is about the factors that lead to criminal justice system involvement. Social workers are more inclined to reframe the question to consider the supports many of us have in place that protect us in society and essentially prevent us from being involved with the criminal justice system: opportunity for a quality education; employment and income security; a stable, culturally appropriate home in a supportive community; access to healthcare and support services, consistent nutritious food and clean drinking water, to name a few.

As social workers, we emphasize the importance of addressing the social determinants of health and of a public health approach in creating communities and conditions that support individuals to live their happiest, healthiest lives. We are also deeply interested in a person's holistic well-being and understand that labels create shame and contribute to negative social and economic outcomes.<sup>2</sup> It is not productive to label individuals as 'criminals', as it not only leads to stigma – which we know is both socially and fiscally costly – and limits our ability to appreciate and give credence to an individual's unique background and context.

Many of the 'risk factors' identified as increasing the likeliness for involvement with the criminal justice system are tightly linked with a lack of social supports and systemic racism:

- Mental illnesses
- Alcohol and Substance misuse
- Unemployment
- Poverty and Homelessness
- Indigenous and racialized populations at increased risk
- Police intervention and labeling
- Distrust of police and the courts

First, because we know that substance misuse is not a criminal problem, but a health concern, CASW supports safe injection sites and harm-reduction approaches, and calls for the decriminalization of the personal use of psychoactive substances.

We also know that individuals with issues related to substance misuse are less likely to re-offend when offered community-based treatment options.<sup>3</sup> Countries such as Portugal have successfully incorporated a public health approach to substance use showing that decriminalization is

possible, and that it has the ability to reduce incarceration rates and deaths associated with overdose – we have a model that supports people and saves lives.<sup>4</sup>

Second, at the core of many of these issues is the historical foundation of the criminal justice system as a response to colonialism, **similarly to other systems including child welfare**. The overrepresentation of Indigenous people in the criminal justice system both in terms of victimization and incarceration is invariably linked with Canada's colonial history of discriminatory policies and practices, including the residential school systems. Alarming, Indigenous women experience a rate of violent victimization close to triple that of non-Indigenous women.<sup>5</sup> In 2016/2017, Aboriginal adults accounted for 28% of admissions to provincial/territorial correctional services and 27% for federal correctional services, while representing only 4.1% of the Canadian adult population.<sup>6</sup> Instead of focusing on why Indigenous people are so overrepresented in the criminal justice system, it is imperative to ask what is wrong with the criminal justice system that it involves Indigenous people so frequently.

We support the principle of “nothing about us, without us,” and believe that, in the journey of reconciliation, Indigenous approaches to criminal justice are critical, as well as encouraging ongoing funding for holistic programs that acknowledge and honour the distinct nations and cultures of First Nations, Inuit and Metis (FNIM) people.

Fundamentally, we support self-determination and believe that services for Indigenous people are best created and delivered by Indigenous communities, with adequate funding and support.

Finally, we believe in continuity of care to facilitate successful reintegration into society. As a right, incarcerated individuals must be paid for their labour and should be provided with opportunities for certification and education while serving sentences in preparation for returning to society.

### **CASW Recommendations:**

#### **1. The decriminalization of the personal use of psychoactive substances**

CASW supports a public health approach to drug and substance use and calls for the decriminalization of the personal use of psychoactive substances. A public health approach focuses on the inherent dignity of persons by seeking to improve and support health promotion. Social workers understand the importance of contextualizing individual experience with substance use to identify the underlying determinants of health.<sup>7</sup> Portugal have successfully incorporated a public health model to substance and drug use showing us that decriminalization is possible, and that it has the potential to reduce incarceration rates and deaths associated with overdose.<sup>4</sup>

#### **2. The removal of mandatory minimum sentences in accordance with the TRC call to action No. 32**

The argument that mandatory minimum sentences act as a deterrent to crime has not been substantiated and have been found to lead to severe penalties directed disproportionately towards Indigenous people.<sup>8</sup> The TRC call to action No. 32 states, “We call upon the federal government to amend the Criminal Code to allow trial judges, upon giving

reasons, to depart from mandatory minimum sentences and restrictions on the use of conditional sentences.” The removal of mandatory minimum sentences would best facilitate the use of Gladue Reports, and encourage an individualized plan for each unique individual.

### **3. Indigenous approaches to be provided from their communities with adequate funding**

There appears to be limited knowledge regarding Indigenous culture, spirituality, and approaches to healing. Often programs attempt to incorporate a First Nations’ perspective, yet there is limited availability of Elders and a lack of understanding regarding the differences between First Nations, Métis and Inuit cultures, spirituality, and approaches to healing. Funding discrepancies found between programs offered by the Correctional Services of Canada (CSC) and Indigenous-run healing lodges need to be addressed.<sup>9</sup>

### **4. Continuity of care to facilitate successful reintegration into society**

Reintegration plans should be implemented between correctional institutions and community services to address the social determinants of health, including: access to housing, income assistance, health care, and employment. Specifically, research has shown that inmates with mental illnesses have benefitted from access to treatment programs and are less likely to re-offend. This of course, requires that the availability of mental health services be made a priority. Participation in a community-based program that addresses skills aimed at increasing social capital has the potential to enhance an individual’s support system and will decrease the likeliness of re-offending. We support programs that provide education and certification opportunities for offenders in preparation for reintegration into society.

## References

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