



## BACKGROUND

### Aboriginal Offenders – A Critical Situation

#### Outcome Gaps: Aboriginal vs. Non-Aboriginal Offenders

Aboriginal offenders lag significantly behind their non-Aboriginal counterparts on nearly every indicator of correctional performance and outcome. These men and women are:

- Routinely classified as higher risk and higher need in categories such as employment, community reintegration and family supports;
- Released later in their sentence (lower parole grant rates), most leave prison at Statutory Release or Warrant Expiry dates;
- Over-represented in segregation and maximum security populations;
- Disproportionately involved in use of force interventions and incidents of prison self-injury; and
- More likely to return to prison on revocation of parole, often for administrative reasons, not criminal violations.

#### High and Growing Incarceration Rates for Aboriginal Peoples

While Aboriginal people make up about 4% of the Canadian population, as of February 2013, 23.2% of the federal inmate population is Aboriginal (First Nation, Métis or Inuit). There are approximately 3,400 Aboriginal offenders in federal penitentiaries, approximately 71% are First Nation, 24% Métis and 5% Inuit.

In 2010-11, Canada's overall incarceration rate was 140 per 100,000 adults. The incarceration rate for Aboriginal adults in Canada is estimated to be 10 times higher than the incarceration rate of non-Aboriginal adults.

The over-representation of Aboriginal people in Canada's correctional system continued to grow in the last decade. Since 2000-01, the federal Aboriginal inmate population has increased by 56.2%. Their overall representation rate in the inmate population has increased from 17.0% in 2000-01 to 23.2% today.

Since 2005-06, there has been a 43.5% increase in the federal Aboriginal inmate population, compared to a 9.6% increase in non-Aboriginal inmates.

**Aboriginal Women:** Aboriginal women are even more overrepresented than Aboriginal men in the federal correctional system, representing 33.6% of all federally sentenced women in Canada. According to Statistics Canada, "the disproportionate number of Aboriginal people in custody (is) consistent across all provinces and territories and particularly true among female offenders. In 2010/2011, 41% of females (and 25% of males) in sentenced custody (provincially, territorially and federally) were Aboriginal." (Juristat, October 2012)

**Aboriginal Youth:** Aboriginal offenders tend to be younger than their counterparts. In 2013, 21.3% of all federally incarcerated Aboriginal offenders were 25 years of age or younger as compared to 13.6% of non-Aboriginals. The Aboriginal population in Canada is young. According to the 2006 Census data, nearly one-third (32%) of the 698,025 people who identified themselves as North American Indians (status and non-status Indians) were aged 0 – 14. Population projections released by Statistics Canada in 2005 show that Aboriginal people could account for a growing share of the young adult population over the next decade. By 2017, Aboriginal people aged 20 to 29 could make up 30% of that age cohort in Saskatchewan; 24% in Manitoba; 40% in the Yukon Territory; and 58% in the NWT.

## Regional Aboriginal Offender Rates on the Rise

In the period between March 2010 and January 2013, the Prairies Region of the Correctional Service of Canada (primarily the provinces of Manitoba, Saskatchewan and Alberta) accounted for 39.1% of all new federal inmate growth. Most of this growth was led by Aboriginal offenders, who now comprise 46.4% of the Prairie Region inmate population. Last month:

- At Stony Mountain Institution in Manitoba, 389 out of 596 inmates – 65.3% of the population – were Aboriginal;
- At Saskatchewan Penitentiary, 63.9% of the population was Aboriginal;
- At the Regional Psychiatric Centre in Saskatoon, 55.7% of the count was Aboriginal; and
- At Edmonton Institution for Women, 56.0% of the population was Aboriginal.

So far this year, CSC's Prairie Region leads the country in double bunking, lockdowns, self-harm incidents, inmate homicides and assaults.

## Factors Impacting Over-representation of Aboriginal People in Corrections

The high rate of incarceration for Aboriginal peoples has been linked to systemic discrimination and attitudes based on racial or cultural prejudice, as well as economic and social disadvantage, substance abuse and intergenerational loss, violence and trauma.

These well-documented social, economic and historical factors have been recognized by the Supreme Court of Canada, originally in *R. v. Gladue* (1999) and reaffirmed in *R. v. Ipeelee* (2012): "To be clear, courts must take judicial notice of such matters as the history of colonialism, displacement, and residential schools and how that history continues to translate into lower educational attainment, lower incomes, higher unemployment, higher rates of substance abuse and suicide, and of course higher levels of incarceration for Aboriginal peoples." (Justice LeBel for the majority in *R. v. Ipeelee*, 2012)

Correctional decision-makers must take into account Aboriginal social history considerations when liberty interests of an Aboriginal offender are at stake (e.g. security classification, penitentiary placement, community release, disciplinary decisions). These *Gladue* factors include:

- Effects of the residential school system.
- Experience in the child welfare or adoption system.
- Effects of the dislocation and dispossession of Aboriginal peoples.
- Family or community history of suicide, substance abuse and/or victimization.
- Loss of, or struggle with, cultural/spiritual identity.

- Level or lack of formal education.
- Poverty and poor living conditions.
- Exposure to/membership in, Aboriginal street gangs