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• (1715)

[English]

The Chair (Mr. John Aldag (Cloverdale—Langley City, Lib.)): Good afternoon, colleagues. I call our meeting to order.

Welcome to meeting number 98 of the House of Commons Standing Committee on Indigenous and Northern Affairs. We recognize that we meet on the unceded territory of the Algonquin and Anishinabe peoples.

We are going to jump right into our opening statements. I apologize for the delay, but votes take priority over what we're doing here.

Today we have, from the Office of the Correctional Investigator of Canada, Dr. Ivan Zinger, correctional investigator of Canada. Dr. Zinger is joined by Hazel Miron, deputy director, indigenous portfolio. Welcome to you both.

Colleagues, normally we have a five-minute opening statement. Dr. Zinger would like to have 10 minutes to go through the report, and then we'll get into the first round of questions.

Is there agreement that we allow the 10 minutes?

Some hon. members: Agreed.

The Chair: With that, Dr. Zinger, we'll turn it over to you. I'll start my clock. I'll give you a yellow card when there are 30 seconds left and a red card when the time is up. If you could then just wrap it up, we'll get into our discussion at that point.

[Translation]

Dr. Ivan Zinger (Correctional Investigator of Canada, Office of the Correctional Investigator of Canada): Thank you so much.

I'd like to begin by thanking the chair and the members of this committee for agreeing to have us here to talk about my latest annual report, which includes a systemic investigation of the state of indigenous people in the federal correctional system.

[English]

I am accompanied by Hazel Miron. She's my deputy director for the indigenous portfolio. She has a lot of experience and has been one of four key members of my investigative team, which produced this document following the largest systemic investigation conducted by my office. It is in this context that I am appearing today.

I would like to start by providing a bit of a historical context and a chronology, which I hope will resonate with you.

My office was established back in 1973, so we're just a little over 50 years old. It was established pursuant to the Inquiries Act. Interestingly, in the very first annual report by my office, the correctional investigator at the time, Ingrid Hansen, highlighted some issues around poor treatment of indigenous incarcerated persons.

Between 1973 and now, my office has issued more than 80 recommendations dealing specifically with indigenous corrections. Unfortunately, only a handful of those have been followed up on by Correctional Service Canada.

In 1992 the role of my office was entrenched in legislation, and the Mulroney government enacted the Corrections and Conditional Release Act. That was a wonderful piece of legislation, very progressive, which spoke to charter rights and administrative law principles, and it included two very progressive provisions—sections 81 and 84. Those sections enabled the Minister of Public Safety—which at that time was the Solicitor General—to enter into agreements with indigenous communities for the care, custody or supervision of indigenous incarcerated persons.

As you well know, in 1999, which was 25 years ago, the Supreme Court of Canada released its historic judgment on the Queen versus Gladue. It stated at the time that by 1997 aboriginal people constituted close to 3% of the population of Canada and made up 12% of all federal inmates. It further stated, “The figures are stark and reflect what may fairly be termed a crisis in the Canadian criminal justice system.” Remember that number—12%.

In 2001, Prime Minister Jean Chrétien stated in his Speech from the Throne:

Canada must take the measures needed to significantly reduce the percentage of Aboriginal people entering the criminal justice system, so that within a generation it is no higher than the Canadian average.

Of course that time frame has long passed.

In 2013, my office issued a special report on indigenous corrections. It found that Correctional Service Canada had moved away from implementing section 81 in the early 2000s, favouring instead investments inside penitentiaries, under its Pathways initiative. Today Correctional Service still operates four healing lodges; they have not been transferred to indigenous communities as originally planned. My office reported a significant funding disparity between CSC-operated healing lodges and section 81 healing lodges, basically 62 cents on the dollar.

In 2015, one of the Truth and Reconciliation Commission's calls to action recommended that the government commit to eliminating the overrepresentation of aboriginal people in custody over the next decade. We are one year away from that deadline. It's not going to happen.

In fact, in 2015, the percentage of indigenous persons in federal custody was 25%. It now stands at.... I'm afraid I made a mistake in my opening remarks, as it's not 32%; it's 33% as of today. This is a new, shameful and historic milestone. In our penitentiaries, one-third are indigenous.

For indigenous federally sentenced women, the situation is even more critical. It moved from 37% in 2015 to 50% today. In 2019, the calls for justice of the National Inquiry into Missing and Murdered Indigenous Women and Girls made 17 recommendations related to federal corrections, including increasing the use of section 81 and section 84. They also made some comments with respect to enhancing the role of elders and implementing consistent application of Gladue factors in decision-making.

Let me skip now to 2021, when Prime Minister Justin Trudeau issued new mandate letters. These included addressing the overrepresentation of indigenous people in the criminal justice system.

Over the last 20 years, Correctional Service has developed five distinct strategies on indigenous corrections. Unfortunately, and despite significant efforts and resources, my office has not observed any significant or measurable improvements on key correctional outcomes—which, by the way, Corrections has control over. If you compare indigenous versus non-indigenous prisoners, indigenous ones are overrepresented in maximum-security institutions. They're overrepresented in structured intervention units, which is the old regime of administrative segregation. They're more likely to be involved in use of force. They're more likely to self-injure. They're more likely to attempt suicide. They serve the higher proportion of their sentence, and the great majority are typically released at statutory release, which is at two-thirds of their sentence. They have a higher rate of parole suspension and revocation, and also a higher rate of recidivism.

Ten years after our initial "Spirit Matters" report, we completed an update. Part 1 and part 2 have been combined into this book. We conducted more than 223 interviews, including with 55 elders. In 10 years, overrepresentation in federal custody went from 23% to 33% overall, and from 32% to 50% for indigenous incarcerated women.

The update we concluded reviewed three key signature initiatives. I would like to highlight some of the findings in those three initiatives.

The first one is healing lodges. There are currently 10 healing lodges in federal corrections. Four are operated by Corrections and have a capacity of 250 beds, which is enough for about 4% of the indigenous in-custody population. Six of those healing lodges are operated under section 81 and are therefore community-based, but they have only 139 beds—a capacity to house only about 2% of the indigenous in-custody population. There are no healing lodges in Ontario, the Atlantic provinces or the north. In terms of funding, it's still 62 cents on the dollar. Corrections mentioned to us 10 years

ago that it had increased funding to healing lodges run by indigenous communities, but it also increased funding to its own healing lodges, so the disparity has actually remained the same.

The second initiative we looked at was with respect to Pathways units. There are currently 350 Pathways beds, which represent about 8% of the total indigenous prison population if there are no vacancies. Unfortunately, there are vacancies.

• (1720)

These pathways are supposed to provide enhanced access to indigenous services and ceremonies, including access to cultural ceremonies and traditional healing. Unfortunately, because there are now over 4,500 indigenous people, over 90% of those indigenous prisoners are denied access to what, in my view, are constitutional rights and should not be considered privilege or program. It is very unfortunate that there is restricted access to those enhanced services.

Finally, we looked at the delivery of elder services. Our interviews overwhelmingly found that elders felt under-supported, undervalued and underappreciated by Correctional Service Canada. They do not get sick leave, paid vacation, health benefits or job security, and most felt overworked and felt a lack of influence and respect.

When my annual report was tabled on November 1, 2023, I hosted a press conference before the National Press Theatre. I was joined, and was very proud to be joined, by the ITK president, by the Métis National Council president and by the AFN regional chief for Quebec and Labrador. Those three national leaders made it quite clear that they agreed that CSC's policies and operations are not working and are unresponsive to indigenous people. They further agreed that Correctional Service Canada must divest significant control, authority and resources to indigenous communities and organizations for the care, custody and supervision of indigenous people.

Thank you. I will leave it at that, and I'm happy to respond to your questions.

• (1725)

The Chair: Thank you so much for that context that you've given us. I think they are some very important numbers to look at and facts to consider, so I look forward to the round of questions we're going to have.

For everybody's information, Dr. Zinger did bring a copy of the book, "Ten Years since *Spirit Matters*". He has English and French versions. I'll grab a copy for everybody. Sébastien, I'll grab a French one for you, if that's okay, and have it available for you. I'll go get one for Michael and the regular members, Bob and Marcus. Then, if any of the members filling in today would also like to get one, if there are some extras, we'll get you those copies as well.

First up, for six minutes, I'll turn to Mr. Schmale.

The floor is yours.

Mr. Jamie Schmale (Haliburton—Kawartha Lakes—Brock, CPC): Thank you very much, Chair.

Thank you to our witness for the testimony today.

Could you tell us, based on the numbers you just gave us and the statistics, why there has been no real improvement in either incarceration rates or custody numbers for indigenous people?

Dr. Ivan Zinger: I have to tell you that my mandate is limited to federal corrections. One thing that corrections believes is that they do not have control, which I think is accurate, of the number of people being admitted into their penitentiaries. However, where I disagree is that they do have the authority, the power and the means to effect change and to have an impact on public safety by ensuring that those incarcerated in their facilities are prepared for a safe and gradual release, and they may be able to make a significant contribution to public safety.

It's clear to me that a lot of the problems that Correctional Service Canada is facing are challenging, and they should be dealt with far sooner, before people arrive in their correctional facilities. In my personal view, and as I said, this is outside my mandate, it's clear that in Canadian society, indigenous people do not benefit from socio-economic, cultural indigenous rights as do the rest of Canadians. There are some incredible disadvantages, and some of those are, of course, rooted in historical factors.

Mr. Jamie Schmale: Given the fact that over the last 20 years, despite resources being put into the Correctional Service to improve the situation, according to your report, there hasn't been any measurable difference.

Having said that, what specific recommendations could you give us now that might have some kind of impact? I don't think that continuing on this path for another 20 years is sustainable or the right thing to do. I'm open to your suggestions.

• (1730)

Dr. Ivan Zinger: It's clear to me that throwing more money and doing the same kind of recipe isn't going to improve the situation for those who are incarcerated in federal facilities. I've made a number of pointed, bold recommendations. After consultation with indigenous organizations and leaders, as well as my staff, including Hazel, it's clear to me that one thing that corrections should do first is start to transfer those four CSC-operated healing lodges to indigenous communities or indigenous organizations. The biggest commitment should be about reallocating a significant amount of its funding to indigenous communities or organizations to create new section 81 agreements and increase bed capacity. This reallocation exercise doesn't cost the government a dime. It's simply a reallocation exercise.

We've also made some recommendations about extending Pathways services to all indigenous people, not just a handful—

Mr. Jamie Schmale: I'm sorry, Doctor. I have less than a minute, and I have one more important question, based on what you mentioned.

There's an article here from the Saskatoon StarPhoenix, dated September 3, 2023. It mentioned that, over a four-year period from 2017 to 2021, there were 56 escapes of federal inmates, 43% of

which happened from healing lodges. My understanding is that these were federally run healing lodges rather than those run by indigenous communities.

Besides, obviously, having more elder support and more support in the community, how quickly can we make that transition over to indigenous-led healing lodges rather than having the Correctional Service run them? Based on the information you're presenting today, there seems to be a very stark difference in how they are operated.

Dr. Ivan Zinger: If the service was in full commitment to shift some of its resources, this would not happen overnight. I think you could plan over one decade to easily shift something in the neighbourhood of \$500 million to build that capacity. I'm sure that, through attrition, this could be done, and through a concerted effort and support from the central agency, that would be an achievable goal.

The Chair: Thank you.

We're out of time on that one.

We'll move now to Mr. Battiste for six minutes.

Mr. Jaime Battiste (Sydney—Victoria, Lib.): Thank you, Dr. Zinger, and thank you for shedding light on the reality of where we are in the corrections system in Canada with indigenous people.

I'm wondering if you can give us any insight as to whether there is any correlation that you have found between those who are either second- or third-generation Indian residential school survivors and those who are currently serving in penitentiaries.

What I'm really trying to look towards is the root causes. I reject any notion that indigenous people, because of a culture or any race-based solutions, are more apt to commit crimes. I'd rather look at the root of why. I've listened to elders, and I'm from Nova Scotia, where the Donald Marshall Jr. inquiry said that systemic racism is present within the justice system and fails indigenous people at every turn.

I'm wondering if you could talk to us a little of the root causes of what we are finding about those who are currently serving and some of the root causes that create the atmosphere where they end up in federal institutions.

• (1735)

Dr. Ivan Zinger: I'd like to ask Hazel to provide you with a response, and maybe I'll complement her response, if needed.

Ms. Hazel Miron (Deputy Director, Indigenous Portfolio, Office of the Correctional Investigator of Canada): Some of the root causes are related to the residential schools and all the trauma that came from that. A lot of intergenerational trauma issues are facing the younger fellas coming into the system. Unfortunately, when you look at their files and see why they're coming into the system, it's almost.... They look at the institution as a new residential school now. Those are still some of the causes as to why they're coming into care or custody.

Did that answer your...?

Mr. Jaime Battiste: Yes, and I thought that would probably be the correlation. With the residential schools, people were taken from homes, removed from their families and not given any love. In fact, they were given all kinds of abuse. This was over several generations.

I have to push back, Dr. Zinger, when you say that it's been 20 years and we've seen no progress. How many years do you think it would take to undo generation upon generation of neglect and harm done to indigenous people at the hands of the justice system and governments? Do we just say that 20 years has been enough and stop throwing money at the situation?

Dr. Ivan Zinger: What I can tell you is that if you look at, for example, the incarceration rate, which is way higher for indigenous people than for non-indigenous people, and you use that as a barometer to assess the successes and failures of our broad public policies, I would argue that if you were able to stop the trend—which has been linear and is getting worse year after year—and even reverse that trend in terms of the incarceration rate, you would find that you would have made gains on issues such as education, housing, health care, employment, anti-racism initiatives and so on.

I think the incarceration rate is probably a rough measure, but it speaks to all those areas that need to be addressed in the community.

Mr. Jaime Battiste: During your testimony, you said you thought that if indigenous offenders were given more opportunity to exercise their rights, this would help the situation. Can you expand a bit? How would ensuring their indigenous rights make us less likely to have the current problems we have?

Dr. Ivan Zinger: Let me give you an example. Three weeks ago, I visited Edmonton Institution, which is a stand-alone maximum-security institution. I think it had, at the time, about 230 incarcerated individuals.

It is so dysfunctional that now they're basically running 12 separate subpopulations within that penitentiary. That means that none of those subpopulations can mix. It's like running 12 separate penitentiaries inside a penitentiary.

That puts extraordinary pressure on access to programs and services. For example, in Edmonton Institution, probably 70% are indigenous. There was no access to the prison industry, CORCAN, so they had no access to the vocational training that CORCAN is supposed to give.

There were only eight individuals who, three times a week, had access to what they call “pre-Pathways services”. That's eight out of 230.

When it comes to school, because you can't mix all the students together, they are lucky if they get school twice a week for two and a half hours, even though they would like to spend a whole day at school, just like anybody else, to try to upgrade their education.

● (1740)

The Chair: I'm sorry. I'm going to have to interrupt.

We are out of time for this round. I will give you a minute to quickly conclude.

The bells have started. I would like to propose that we get through at least this round of questions, which would be another 12 minutes. I need unanimous consent to do that.

Some hon. members: Agreed.

The Chair: Okay. If you want one concluding sentence, Mr. Battiste, you can have it. If you're good, I'll move to Monsieur Lemire.

Monsieur Lemire, the floor is yours for six minutes.

[*Translation*]

Mr. Sébastien Lemire (Abitibi—Témiscamingue, BQ): Thank you, Mr. Chair.

Thank you, Dr. Zinger, for your presentation and for drawing our attention to such an important issue.

Retired justice Jean-Charles Coutu is a family friend. He was known as Quebec's far north judge. He worked in indigenous communities for more than 20 years, and then he wrote a report. Over the holidays, I had the opportunity to visit him. He shared how sad he was that his report had essentially been shelved.

I believe that a number of the points you raised today deserve a brief historical overview.

Just this past year, Jean-Charles Coutu received the very prestigious Order of Canada. During an interview, he said that, whenever he was working in the far north, he would always meet with Cree band councils and Inuit municipal councils, because sitting next to the band chief was an important contributing factor for the acceptability and social peace that certain judgments could generate. He was always talking to communities about how to make things better and position first nations to take charge of various things.

His report contained 54 recommendations. Mr. Coutu made some very innovative suggestions. For example, he often opted for more lenient sentences so people could remain in their communities. Exiling an Inuk to another village is a much harsher sentence than you might think. We know that the circle is important in Inuit and indigenous culture. Taking an indigenous person or an Inuk out of their community is often a much harsher penalty than the sentence itself. That leads to some degree of disengagement from the system, which in turn leads to the problems you raised in your report.

Another of the recommendations in his report was for a “comprehensive strategic presence of the administration of justice in indigenous communities, tailored to the specific needs of each community in accordance with their social values”. There was also a program to appoint justices of the peace in indigenous communities, one that included more indigenous people, and to set up a special court. Those were some of the things that stood out.

In his 1995 report to the Government of Quebec, Mr. Coutu wrote a passage that I find interesting:

To restore harmony, a judge should be able to go beyond the disputes submitted to him.... It is rare for our system to grant such broad powers to a judge. It seems clear that, if we apply our system indiscriminately in Aboriginal communities, we will continue to provide a form of justice that lacks the necessary elements to achieve positive results and inspire the respect that justice deserves.

In short, by being too strict in indigenous communities, we are not adapting to their culture, and we end up with problems like overcrowding.

Do you think our justice system should explore the idea of including band councils and giving indigenous communities more autonomy in enforcing their rights?

• (1745)

Dr. Ivan Zinger: Yes. That problem certainly exists among our Inuit in northern Quebec and the far north.

As I said, there are no penitentiaries in the north. Inuit are therefore sent to penitentiaries in southern Canada. The Correctional Service has established four Inuit centres of excellence that provide programming that better meets their needs.

However, when we looked closely at the situation in November 2023, there were about 130 Inuit in the federal correctional system, and only half of them were placed in those centres with more appropriate programming.

This is becoming a real problem and, in our opinion, in order to uphold the principles of reconciliation, determination and self-governance of indigenous peoples, indigenous communities must have much more control over their justice system, from A to Z, including indigenous police services, courts and the administration of sentences.

Mr. Sébastien Lemire: I mentioned to you earlier that I found it interesting that the chair of the Cree band council or an Inuit municipal council was present during hearings, and that the judge consulted them, including them in a dialogue with the accused to arrive at a better understanding of the situation.

The idea is to encourage people to talk about outside-the-box sentencing, foster restorative justice and allow for participation in circles.

Should we explore that instead of asking for community extradition sentences?

[English]

The Chair: I'm sorry, but just before you answer, I'll note that that's the end of the six minutes, so I'll give you a brief opportunity to respond, but then we will need to go to Ms. Idlout.

[Translation]

Dr. Ivan Zinger: The answer is yes. In my opinion, there should definitely be more such commitments, commitments that are more respectful of indigenous communities.

Mr. Sébastien Lemire: Thank you, Mr. Chair.

Meegwetch.

[English]

The Chair: Thank you, Monsieur Lemire.

Ms. Idlout, it's over to you now for your six minutes.

Ms. Lori Idlout (Nunavut, NDP): *Qujannamiik, Iksivautaq.*

Thank you, Chair, and thank you to both witnesses for appearing today. I very much appreciate your report, because you highlighted the injustices that indigenous people continue to experience. I really hope that not just this committee but all parliamentarians read this important report, because you address a lot of things, including intergenerational trauma. You address the impacts of colonial and genocidal policies on indigenous people, and you provide very good recommendations to try to transform our justice system so that we do start seeing a reduction in the overrepresentation of indigenous people in this very oppressive system.

I wanted to just commend you on your great work.

I note, in the report you gave us, "Ten Years since *Spirit Matters*", when you show us the data about the healing lodges, there are 10 healing lodges that you've listed, and out of those 10 lodges only two have seen 100% occupation. The rest have either been not reportable or seen lower incidences of occupation. I wonder if you could explain to us how that kind of result has come to be.

Is it, for example, that there is not enough information given to indigenous communities about the existence of these programming dollars to offer healing lodges? That kind of information would be super helpful.

• (1750)

Dr. Ivan Zinger: I'm sorry, are you talking about the rate of occupancy of the various healing lodges? Is that what you meant?

Ms. Lori Idlout: I think so, because in your report, on page 10, it says that the Waseskun Healing Centre is 100% occupied. The Willow Cree Healing Centre is 100% occupied. Why would all of these other healing lodges not be 100% occupied, if there's such an overrepresentation of indigenous people in the justice system?

Dr. Ivan Zinger: That's an excellent question. We were as puzzled as you are.

If you have 4,500 indigenous prisoners in federal corrections and you have only 139 beds, how come those beds are not full? It's the same with respect to the CSC-operated healing lodges, with the capacity of 250. When we looked at it overall, I think those beds were 75% occupied. We raised the question, why not 100%?

When we did some of the work that we did, we found that the healing lodges are wanting more residents. They are accepting on paper more residents. Unfortunately, Correctional Service isn't sending them.

There is now a really troubling trend. Minimum-security institutions run by corrections are now competing with healing lodges, which, by law, are considered minimum-security institutions. It's very unfortunate. Unless corrections is pushed to do more and to do better, the situation's going to remain the same. It's exactly what we found in 2013.

Hazel has visited so many healing lodges over the years.

Ms. Hazel Miron: There are a lot of fellas who are still maintained in medium security. A lot of them are not being reviewed to be transferred to healing lodges. There seem to be barriers every time they want to be transferred. They'll transfer from a medium facility to a Pathways facility, and finally they might get an opportunity to go to a healing lodge.

The criteria are very hard to access for some of the fellas and the women. That's an issue. I think the criteria need to be reviewed to take into consideration realistic criteria from an indigenous perspective, and not from a CSC type of perspective.

The Chair: We're pretty much out of time on this one. Thank you.

Unfortunately, we are going to have to wind up at this point.

I'm looking at my clock. We have 15 minutes before the vote, which would put us at about 10 past. The vote is 10 minutes and then we need to allow 10 minutes to get back, which is going to take us to 6:30. I know many of the members have indicated that they have events they're either hosting or need to attend this

evening by 6:30, so with apologies to our guests, we are going to have to end it at this point.

We do really appreciate your coming in on such short notice and for the thoroughness of the report you've given us. I think it will give our committee many things to discuss. Thank you so much for your persistence in flagging some of these very important issues to the government and to our committee members.

Colleagues, when we come back in a couple of weeks in March, the first meeting is going to be on the Supreme Court decision. I'm going to allow 90 minutes for that, and then we'll move the committee business to the last 30 minutes of that meeting. On the Wednesday, we have the ministers coming to discuss the supplementary (C)s. That's the plan.

For today, we will end. I wish everybody a good couple of weeks at home. We'll see you back here in March.

The meeting is adjourned.

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