

OUR LAND IS OUR FUTURE

UNION OF BRITISH COLUMBIA INDIAN CHIEFS

FOUNDING HEAD OFFICE
209 - 345 Chief Alex Thomas Way
Kamloops, B.C. V2H 1H1
Tel: 250-828-9746
Fax: 250-828-0319



VANCOUVER OFFICE
401 - 312 Main Street
Vancouver, B.C. V6A 2T2
Tel: 604-684-0231
Fax: 604-684-5726
1-800-793-9701
Email: ubcic@ubcic.bc.ca
Web: www.ubcic.bc.ca

March 24, 2020

Honourable David Lametti
Minister of Justice & Attorney General
of Canada
House of Commons
Ottawa, ON K1A 0A6

Honourable Bill Blair
Minister of Public Safety & Emergency
Preparedness
House of Commons
Ottawa, ON K1A 0A6

Honourable Mike Farnworth
Minister of Public Safety and Solicitor General
PO Box 9010 Stn Prov Govt
BC V8W 9E2

Honourable David Eby
Attorney General
PO Box 9044 Stn Prov Govt Victoria,
Victoria, BC V8W 9E2

OPEN LETTER: UBCIC demands immediate release of all non-violent offenders as part of COVID-19 pandemic response and emergency state of Indigenous incarceration

Dear Ministers,

Dr. Ivan Zinger, Canada's Chief Correctional Officer, has called the current rates of Indigenous incarceration in Canada a national travesty, with nearly 1/3 of all inmates in Federal custody being Indigenous. In response to the growing rates of Indigenous people being sentenced to custody, the UBCIC Chiefs Council presented, affirmed and endorsed unanimously UBCIC Resolution 2020-03, "Call for Action to Declare Indigenous Incarceration Rates a State of Emergency" (attached), on February 27, 2020.

In the weeks since, the COVID-19 pandemic has seized the attention and the resources of the country, with governments rushing to mitigate losses. Crisis-reactions have allowed the most vulnerable people to be overlooked, and without immediate attention and drastic interventions, COVID-19 threatens the safety and wellbeing of incarcerated people across British Columbia and Canada. Over-crowding and insufficient sanitation could cause the virus to spread rapidly in correctional facilities, while insufficient medical and mental health resources increase its lethality. Article 7(1) of 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, states that all Indigenous peoples

have the rights to life, physical and mental integrity and security of person. It is the responsibility of your governments to ensure that international human rights of Indigenous people are protected and upheld during this pandemic.

The consequences of the pandemic for the criminal justice system will be disproportionately felt by Indigenous people, who remain dramatically over-incarcerated by BC and Canada. UBCIC demands incarceration levels be recognized as an emergency and requires an urgent response from BC and Canada on the issues contained in this letter.

By Resolution 2020-03, the UBCIC Chiefs Council calls upon the Federal and Provincial governments to commit to reducing the overall number of Indigenous people in custody at least 5% by 2022. With the current health crisis created by COVID-19, we ask that your governments elevate the urgency of this call and implement immediate strategies focused upon the decarceration of Indigenous peoples as a pandemic response. To facilitate this, we make the following recommendations:

- Immediately develop release plans for low-risk and non-violent offenders;
- Proactively identify all inmates who may be nearing eligibility for parole or statutory release and begin facilitating release plans;
- Ensure corrections facilities have updated pandemic preparedness plans and adequate medical resources to humanely treat inmates who may contract the virus, including plans for quarantine and isolation that do not rely on over-use of solitary confinement;
- Provide free calling and video-calling access for all incarcerated people to mitigate the consequences of lost visitations; and
- Immediately call for the full decarceration of Indigenous youth in custody wherever possible, in line with the intentions of the Youth Criminal Justice Act.

In addition to the risk posed by COVID-19 mismanagement in prisons, we caution the use of policing for enforcement of pandemic-related sanctions. Where BC or Canada uses their authority to restrict civil liberties in order to reduce the transmission of COVID-19, you must work to ensure it does not put Indigenous people at risk of further criminalization. The use of police forces to disperse gatherings or regulate non-essential travel must not unduly target Indigenous peoples, and specifically must not endanger or target those who are homeless or at risk of homelessness, or who may be facing significant socio-economic barriers to self-isolation.

While a response to the COVID-19 pandemic addressing the overincarceration of Indigenous peoples is needed now, we also require assurances that long-term decarceration work is not neglected. UBCIC calls for an ongoing commitment to the full decarceration of Indigenous peoples by taking the following steps:

- Immediately re-establish the Law Reform Commission with a specific mandate to address the systemic and legislative factors that impact overincarceration and substantive inequality for Indigenous people involved in the criminal justice system; and
- Work towards the transfer of jurisdiction over the care, custody, and supervision of Indigenous offenders to First Nations, transforming the criminal justice system and ensuring that sections 81 and 84 of the Corrections and Conditional Release Act are utilized to their full legislative intent, including adequate resourcing for First Nations and support to resume jurisdiction over justice.

We await your urgent response to the issues identified in this letter, and we ask that you work closely with the First Nations Justice Council, the First Nations Leadership Council, and First Nations leadership broadly to develop and implement a pandemic response plan for Indigenous people currently incarcerated or at risk of becoming involved with the criminal justice system. Anything less threatens to repeat the patterns of violent institutional negligence that has characterized genocide against Indigenous people in Canada since colonization began.

On behalf of the UNION OF BC INDIAN CHIEFS



Grand Chief Stewart Phillip
President



Chief Don Tom
Vice-President



Kukpi7 Judy Wilson
Secretary-Treasurer

CC: Assembly of First Nations
BC First Nations Justice Council
BC Assembly of First Nations
First Nations Summit

OUR LAND IS OUR FUTURE

UNION OF BRITISH COLUMBIA INDIAN CHIEFS

FOUNDING HEAD OFFICE
209 - 345 Chief Alex Thomas Way
Kamloops, B.C. V2H 1H1
Tel: 250-828-9746
Fax: 250-828-0319



VANCOUVER OFFICE
401 - 312 Main Street
Vancouver, B.C. V6A 2T2
Tel: 604-684-0231
Fax: 604-684-5726
1-800-793-9701
Email: ubcic@ubcic.bc.ca
Web: www.ubcic.bc.ca

UNION OF B.C. INDIAN CHIEFS CHIEFS COUNCIL

FEBRUARY 26TH-27TH, 2020

MUSQUEAM COMMUNITY CENTRE, X^MMƏK^WƏY^ƏM (MUSQUEAM TERRITORY)

Resolution no. 2020-03

RE: Call for Action to Declare Indigenous Incarceration Rates a State of Emergency

WHEREAS the number of Indigenous people represented in the federal inmate population has continued to rise while the number all other federally sentenced inmates has consistently decreased – Indigenous people currently represent 30% of the federal inmate population generally and 42% of the female federal inmate population, causing the Chief Correctional Officer to declare this a “national travesty”;

WHEREAS 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:

Article 7(1): Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person;

Article 21(2): States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities;

Article 22 (2): States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination;

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 38: States in consultation and cooperation with indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration.

WHEREAS First Nations justice issues have been consistently mismanaged, understated, and ignored at every phase of the criminal justice system, and by provincial and federal governments;

WHEREAS by Resolution 2007-25, the UBCIC Chiefs Council recognized that Indigenous peoples in British Columbia are disproportionately over-represented in all areas of the justice system and endorsed the implementation of the BC First Nations Justice Action Plan, which called for the formation of a BC First Nation Justice Council;

WHEREAS there is a direct and causal link between Indigenous survivors of the child welfare system and the criminal justice system, tagged as the “child welfare to prison pipeline,” further implicating the role of the colonial state in oppressing and assimilating Indigenous peoples through colonial law; and

WHEREAS the First Nations Justice Council has created and tabled a First Nations Justice Strategy in which a comprehensive approach to reform the current justice system, and to revitalize affirm First Nations justice systems is proposed.

THEREFORE BE IT RESOLVED the UBCIC Chiefs Council joins the call to declare that the rates of Indigenous incarceration in BC and Canada constitute a State of Emergency, requiring immediate and concrete action by the federal and provincial governments, including a commitment to decreasing the number of Indigenous people in custody at least 5% by 2022;

THEREFORE BE IT FURTHER RESOLVED the UBCIC Chiefs Council calls upon the federal government to take immediate steps to address the overincarceration of Indigenous people in federal prisons, including but not limited to: ensuring access to and full implementation of *Gladue*, and by amending the *Criminal Code* to allow judicial discretion in mandatory minimum sentences, and in determining a sentence based upon the specific circumstances of the offence and the individual;

THEREFORE BE IT FURTHER RESOLVED the UBCIC Chiefs Council Calls upon the provincial governments for the immediate decarceration of Indigenous youth, recognizing the colonial and intergenerational causes of Indigenous youth criminality, including the causal relationship of the child welfare system, and affirming the need for a trauma-informed approach which fully implements the *Gladue* decision and the intentions of the *Youth Criminal Justice Act* (YCJA);

THEREFORE BE IT FURTHER RESOLVED the UBCIC Chiefs Council calls upon the federal and provincial governments to transfer jurisdiction over the care, custody and supervision of Indigenous offenders to First Nations, through the transformation of the criminal justice system and through ensuring that sections 81 and 84 of the Corrections and Conditional Release Act be utilized to their full legislative intent, including by ensuring First Nations are adequately resourced and supported to resume jurisdiction over justice matters;

THEREFORE BE IT FURTHER RESOLVED the UBCIC Chiefs Council calls upon the federal government to immediately re-establish the Law Reform Commission with a specific mandate to address the systemic and legislative factors that impact overincarceration and substantive inequality for Indigenous people involved in the criminal justice system;

THEREFORE IT BE FURTHER RESOLVED the UBCIC Chiefs Council calls upon the Law Society of BC to meet with the FNLC and the FNJC to immediately begin a dialogue to address the historical and ongoing systemic issues that perpetuate these issues and to immediately identify and address issues with the criminal and Indigenous bars that around this topic; and

THEREFORE BE IT FINALLY RESOLVED the UBCIC Chiefs Council directs the UBCIC Executive and staff to work with the First Nations Justice Council and other like-minded organizations to implement the First Nations Justice Strategy, which contains critical recommendations that will ultimately reduce the rate of Indigenous incarceration in BC and Canada.

Moved: Chief Donna Aljam, Nicomen Indian Band

Seconded: Travis Hall, Heiltsuk Nation (Proxy)

Disposition: Carried

Date: February 27, 2020