



Native Women's Association of Canada
L'Association des femmes autochtones du Canada

Intergenerational Effects of Incarceration and MMIWG2S+

Final Report

**A Metastasizing Problem: Incarceration and
Intergenerational Effects of the MMIWG2S+ Genocide**

Five Policy Research Papers on Missing and Murdered
Indigenous Women, Girls, and Gender-Diverse People

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INTRODUCTION

BACKGROUND

On December 17, 2021, the Correctional Investigator of Canada released new data that shows that the proportion of incarcerated Indigenous Women¹ has continued to increase unabated and is nearing 50% of all federally sentenced women (Office of the Correctional Investigator, 2021). Indigenous peoples (Men and Women) make up 32% of those who are currently incarcerated in federal institutions (Office of the Correctional Investigator, 2021). Indigenous People in federal institutions rose from 20% of the total inmate population in 2008–2009 to 28% in 2017–2018 while representing only 4.1% of the overall Canadian population (Department of Justice, 2020). Similarly, the report notes that the percentage of federally incarcerated Indigenous Women rose from 32% of the female inmate population to 48% during the same time period (Office of the Correctional Investigator, 2021).

The Native Women’s Association of Canada (NWAC) is a leading voice on research and policy for Indigenous Women, Girls, Two-Spirit, Transgender, and Gender-Diverse (WG2STGD) People, particularly as it pertains to the systemic, structural, and institutional issues that, including incarceration, contribute to the ongoing Missing and Murdered Indigenous Women, Girls, Two-Spirit, Transgender, and Gender-Diverse Peoples (MMIWG2S+) genocide. As per NWAC’s Call to Action Plan (CAP), which addresses the systemic issues related to MMIWG2S+, a recognition of distinct Indigenous identities, cultural safety, and a trauma-informed approach must be upheld and respected to achieve substantive equality and human rights, a decolonized approach to health care, the inclusion of families and survivors, self-determination, and Indigenous-led solutions and services (NWAC, 2021). The Government of Canada’s National Inquiry and NWAC’s Research Scoping Paper on the National Action Plan (NAP) identified a significant link between the over-incarceration and criminalization of Indigenous WG2STGD People and MMIWG2S+. Indeed, the Inquiry found that the issue of MMIWG2S+ is both a contributing factor to and a product of incarceration. Although the Inquiry set the foundation for understanding some of the risk factors leading to the disturbingly high rates of incarceration and criminalization of Indigenous WG2STGD People and some potential solutions, there is a considerable gap in knowledge regarding the intergenerational effects that the of incarceration and the MMIWG2S+ have on family members, communities, and survivors.

As outlined above, NWAC has a proud history of research and policy that seeks to address the ongoing crisis of MMIWG2S+ and anti-Indigenous racism (AIR) on Turtle Island and Inuit Nunangat. NWAC’s 2021 Our Calls, Our Actions plan directly responded to the inaction of the Government of Canada’s NAP. NWAC continues to be dedicated to the need to recognize distinct Indigenous identities and cultural safety. Moreover, NWAC developed 65 concrete actions that speak to the specific and unique needs of Indigenous communities in Canada that are “holistic,” “decolonizing,” and “trauma-informed” (NWAC, 2021, p. 9).

¹ Sufficient data is unavailable from federal government sources on individuals who do not identify within the man/woman binary that is bound up within the carceral system. Therefore, when referencing some of the literature, we are limited to using terminology like men and women but understand this is not an accurate representation.



Through this project, we aim to connect the lived experience of WG2STGD People affected by intergenerational trauma, the ongoing crisis of MMIWG2S+, and the hyper-imprisonment of Indigenous WG2STGD People in Canada. We explore the community-level, social-economic factors that create and sustain a negative feedback loop between experiences of incarceration and MMIWG2S+, which ultimately consumes the freedom, health, well-being, and livelihoods of Indigenous WG2STGD People. In determining what this collaboration process might look like, we will also draw attention to how the current initiatives can be more inclusive and safer for Indigenous WG2STGD People.

THIS RESEARCH PROJECT AIMS TO ANSWER THE FOLLOWING QUESTIONS:

1. What is the connection between having an Indigenous WG2STGD Person's family member who is or was missing or murdered and the over-incarceration of Indigenous WG2STGD People?
2. What are some of the reasons that 100% of the incarcerated Indigenous Women interviewed in the Truth and Reconciliation Commission's research process report have a mother or family member who is or was missing or murdered?
3. What changes might the loss of a loved one due to the ongoing MMIWG2S+ genocide cause in an indigenous WG2STGD person's social support network and economic situation, creating circumstances leading to incarceration?
4. Using trauma-informed practices, how can we successfully shift the focus of research on the criminalized individual to a discussion of what in our society and institutions is creating the circumstances that lead to the over-incarceration of Indigenous WG2STGD People?
5. What resource could be created to increase understanding of the conditions perpetuating the cycle between MMIWG2S+ and individuals experiencing imprisonment?



MMIWG2S+, NWAC AND ADDRESSING TRC AND THE CALLS TO ACTION

NWAC's analysis and recommendations in this research project respond directly to the National Inquiry's Calls for Justice and our Call-to-Action Plan. This research project is an important element of the journey toward truth and reconciliation and the need for additional support for those who are survivors of the MMIWG2S+ genocide. More specifically, this research project speaks to the following National Inquiry's Calls for Justice:

- **Section 4.1:** We call upon all governments to uphold the social and economic rights of Indigenous women, girls, and 2SLGBTQQIA People by ensuring that Indigenous Peoples have services and infrastructure that meet their social and economic needs. All governments must immediately ensure that Indigenous Peoples have access to safe housing, clean drinking water, and adequate food.
- **Section 4.5:** We call upon all governments to establish a guaranteed annual livable income for all Canadians, including Indigenous Peoples, to meet all their social and economic needs. This income must take into account diverse needs, realities, and geographic locations.
- **Section 5.1:** We call upon all governments to immediately implement the recommendations in relation to the Canadian justice system in: *Bridging the Cultural Divide: A Report on Aboriginal Peoples and Criminal Justice in Canada*, Royal Commission on Aboriginal Peoples (1996); and the *Report of the Aboriginal Justice Inquiry of Manitoba: Public Inquiry into the Administration of Justice and Aboriginal Peoples* (1991).
- **Section 5.10:** We call upon all governments to recruit and retain more Indigenous justices of the peace, and to expand their jurisdictions to match that of the Nunavut Justice of the Peace.
- **Section 5.11:** We call upon all governments to increase accessibility to meaningful and culturally appropriate justice practices by expanding restorative justice programs and Indigenous Peoples' courts.
- **Section 5.14:** We call upon federal, provincial, and territorial governments to thoroughly evaluate the impact of mandatory minimum sentences as it relates to the sentencing and over-incarceration of Indigenous women, girls, and 2SLGBTQQIA Peoples and to take appropriate action to address their over-incarceration.



- **Section 5.15:** We call upon federal, provincial, and territorial governments and all actors in the justice system to consider Gladue reports as a right and to resource them appropriately, and to create national standards for Gladue reports, including strength-based reporting.
- **Section 5.16:** We call upon federal, provincial, and territorial governments to provide community-based and Indigenous-specific options for sentencing.
- **Section 5.22:** We call upon the federal government to return women’s corrections to the key principles set out in *Creating Choices* (1990).
- **Section 5.23:** We call upon the federal government to create a Deputy Commissioner for Indigenous Corrections to ensure corporate attention to, and accountability regarding, Indigenous issues.

This project speaks to the following recommendations outlined in NWAC’s Call to Action Plan:

Actions	Measurable Landmarks	Calls for Justice References
<p>Police Training develop training on Indigenous women and gender-based violence and MMIWG</p>	<p>Specialized training modules for policing developed and delivered</p>	<p>9.1 Acknowledge the racism, colonialism, & bias that define the Indigenous women-justice system relationship.</p> <p>9.2 Build respectful working relationships with Indigenous people & make efforts to know them.</p> <p>9.3 Fund an increase in the recruitment of Indigenous people to police services, especially women.</p> <p>10.1 Mandatory training of all involved in the criminal justice system on Indigenous cultures and histories.</p>
<p>Continuation of Policy, Research and Advocacy</p>	<p>National awareness campaign developed and implemented.</p> <p>Roundtable with key stakeholders held.</p> <p>Indigenous Women’s section 81 advisory group established.</p> <p>Pilot program developed and evaluated.</p> <p>Permanent program using a phased-in approach developed.</p>	<p>5.21 Employ recommendations to reduce over-representation of Indigenous women in the criminal justice system.</p> <p>14.1 Establish facilities to Indigenous women have options for decarceration</p> <p>14.3 Rescind maximum-security classification that disproportionately limits Indigenous women from accessing supports.</p> <p>14.5 Apply Gladue factors in all decision making concerning Indigenous women.</p>



<p>Advocate for improved legal aid services and funding for children and youth.</p> <p>Set up an MMIWG legal team to support MMIWG work</p>	<p>Partnerships and MOUs, in the provinces and territories signed.</p> <p>Services provided to Indigenous Women</p> <p>MMIWG lawyers hired at the National Office (SEIC)</p>	<p>Ensure Indigenous people in the court system know their rights and are connected to appropriate services.</p> <p>Create funding; disseminate prevention programs; education & awareness campaigns.</p>
	<p>Partnership with universities established for provision of legal services.</p>	

(NWAC, 2023)

SUMMARY

The disproportionate level of systemic violence directed towards Indigenous Peoples is one of the reasons that Indigenous Women are over-represented in the Canadian prison population. This also demonstrates a clear connection between the violence that missing and murdered Indigenous Women and Girls experience and their likelihood of experiencing incarceration (National Inquiry, 2019, Volume 1a). In response to findings within the Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls that almost 100% of the women who were incarcerated identified as having a family member who was missing and/or murdered (National Inquiry, 2019, Volume 1a), through this exploratory paper we sought to identify what creates and sustains this connection. To fulfill the purpose and aim of this research project, we conducted three semi-structured, two-hour-long interviews and employed thematic analysis to code the data. Based on the identified codes, we constructed the following three themes from our interviews with experts in the field of incarceration in Canada: 1) intergenerational pain of incarceration; 2) hyper-imprisonment as the failure of multiple institutions; and 3) Indigenous-led care and access to culture are critical for disrupting cycles. All participants shared examples of the ways in which cultural and physical genocide of Indigenous Peoples is being perpetuated through institutions like the carceral state, child welfare system, and disconnection from land, and how these phenomena are connected to the MMIWG2S+ genocide. One of the most significant findings was the confounding phenomenon of the ways in which Indigenous WG2STGD+ People are hyper visible to the justice system in some ways and invisible in other ways. Participants shared that Indigenous WG2STGD People are over-surveilled by police, parole officers, and social workers; yet, when we consider the MMIWG2S+ genocide, we reveal a systemic apathy towards the crimes committed against Indigenous WG2STGD Peoples.

METHODS

This section outlines methodological frameworks for this research project, including the use of in-depth, semi-structured interviews, secondary source data, thematic analysis, and a framework that incorporates culturally relevant gender-based analysis plus (CRGBA+), free, prior, and informed consent (FPIC), intersectionality, trauma-informed consent (TIC), and two-eyed seeing/etuaptmumk. Interviews were conducted, coded, and sent to each interviewee to ensure FPIC and TIC models were employed.



We conducted three semi-structured, two-hour-long interviews using three experts in the field of incarceration and MMIWG2S+. We chose semi-structured over structured in recognition of the importance of using decolonized methods and ensuring our research centres on the experiences of Indigenous Peoples. Semi-structured interviews are focused but flexible (Fontana & Frey, 2004); researchers conducting semi-structured interviews follow a general guideline of open-ended questions but can also ask clarifying questions or probe for more information (Fontana & Frey, 2004). Ensuring we asked each participant the same question created opportunities to capture different perspectives on the topic of intergenerational incarceration while allowing for the opportunity to probe and explore when an area of interest came up.

Participants were selected based on their expertise in the field of incarceration and intergenerational trauma within an Indigenous context. The 12 semi-structured interview questions we created explored some of the intergenerational effects of incarceration (see Appendix B). The interviews were conducted virtually between June 27, 2022, and June 29, 2022. Interviewees were provided with the consent form and interview questions in advance and gave their verbal consent before the interview. NWAC gave participants an honorarium to compensate them for their time and expertise. Interviews were recorded and transcribed using translation software. Transcripts were then edited and sent to participants for approval.

We coded the interview data using thematic analysis (TA). Braun and Clarke (2019) describe TA as an accessible and theoretically flexible method of data analysis that is particularly effective for identifying patterns within qualitative data sets (p. 79). Using a fine balance between acknowledging our own assumptions as researchers and considering the data as data, not information, is integral to TA and considers the sensitive nature of the topic of intergenerational effects of incarceration and its relationship to MMIWG2S+. TA is appropriate for research in Indigenous communities when researchers are engaged in the research process and recognize their own social positioning and practice of transparency. NWAC’s researchers read through each transcript carefully and highlighted text that we felt was important, surprising, or significant (Braun & Clarke, 2019). We also noted any underlying concerns and developed brief summaries for each quote. We then organized the notes into themes and subthemes, noting how often they occurred and their significance.

Based on what was found within the data set, the following codes were created:

disruption of the family	family member who is imprisoned	systemic interventions and intersections that create vulnerabilitiesNational Office (SEIC)	challenges for non-binary Two-Spirit peopleNational Office (SEIC)
child apprehension	connection to MMIWG2S+ the mark of imprisonment	calls for restorative justice	importance of Indigenous-led culture and education
residential and federal Indian Day Schools	vulnerabilities caused by being in and leaving the carceral system	how systems target Indigenous women	connection to family while incarcerated
imprisonment	interconnectedness of systems that make disruption difficult	tools of imprisonment	carceral clawback break the cycle/Indigenous-led solutions
Hyper-imprisonment of Indigenous women	systemic perpetuation of genocide towards Indigenous Peoples	support that women exiting incarceration need	challenges for non-binary and Two-Spirit people

The following methodological frameworks informed this research project.



CULTURALLY RELATIVE GENDER-BASED ANALYSIS+ (CRGBA+)

As with all of NWAC’s research work, culturally relevant, gender-based analysis+ (CRGBA+) was used. Rooted in an intersectional, gender-diverse, Indigenous-focused/-led, and distinctions-based approach, CRGBA+ provides a foundation to better advocate for the safety, empowerment, and self-determination of First Nations, Inuit, and Métis WG2STGD People. CRGBA+ is effective in challenging the systemic patterns noted within intergenerational incarceration experiences. By applying CRGBA+, we can reinforce NWAC’s collective vision for “an inclusive world that understands and respects the diversity and uniqueness of all Indigenous women and families.”

Until 2021 when NWAC recommended the CRGBA+ framework, many research and policy tools had not given proper justice to the complex intricacies of settler-colonialism and its implications on Indigenous WG2STGD People (Sanchez-Pimienta et al., 2021). An Indigenous gender-based analysis recognizes “the patriarchal histories, structures, and social norms imported from Europe that have been imposed on Indigenous Communities since contact, which have had devastating consequences for their governance, community and family relations, with direct impacts on health and wellness” while also understanding “the specific cultural, geographical, historical, and spiritual contexts and strengths of diverse Indigenous Communities that have survived and resisted the imposition of patriarchal worldviews” (Sanchez-Pimienta et al., 2021, p. 11575). NWAC’s distinctions-based gender-based analysis recognizes the uniqueness of Métis, First Nations, and Inuit People while noting their shared experiences of anti-Indigenous racism (AIR) in Canada (NWAC, 2020) and acknowledging the impacts and experiences “before colonization, early colonization and attempted assimilation, current social and political realities, and strategies and responses looking into the future” (Sanchez-Pimienta et al., 2021, p. 11577). CRGBA+ incorporates a reflective lens that signifies the importance of settler colonialism in the current experiences of AIR in the carceral system. Employing a CRGBA+ framework ensures that investigations into the connections between incarceration and the MMIWG2S+ genocide recognize the intersections that shape the experiences of Indigenous WG2STGD peoples.

FREE, PRIOR, INFORMED CONSENT

As per the guidance of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), this project strived to incorporate the free, prior, informed consent (FPIC) model. As a self-determination process, FPIC provides Indigenous Peoples with space to “[g]ive or withhold consent to a project that may affect them or their territories,” and “[c]onduct their own independent and collective discussions and decision-making” in an environment that is culturally safe, as well as “[d]iscuss in their own language, and in a culturally appropriate way, on matters affecting their rights, lands, natural resources, territories, livelihoods, knowledge, social fabric, traditions, governance systems, and culture or heritage [tangible and intangible]” (Food and Agriculture Organization of the United Nations, 2016, p. 13). Each participant gave their consent before each interview (Appendix A), along with the interview questions (Appendix B). They each were sent the final transcript, for their approval—giving them an opportunity to see how their interview would be reflected in the paper.



INTERSECTIONALITY

We adopted an intersectional approach throughout project development. Originally coined in 1991, Kimberlé Crenshaw defines intersectionality as “[a] lens, a prism, for seeing the way in which various forms of inequality often operate together and exacerbate each other.” She highlighted: “What’s often missing is how some people are subject to all of these, and the experience is not just the sum of its parts” (Crenshaw, quoted in Steinmetz, 2018). In the context of MMIWG2S+ research, intersectionality recognizes the unique lived experience of each Indigenous person, noting perspectives based on gender, economic status, geographic location, and other factors. For Audre Lord (2007), “There is no such thing as a single-issue struggle because we do not live single-issue lives” (p. 138). Using intersectionality allows one to explore heteropatriarchy and settler colonialism and contributes to a strong correlation between race- and gender-based violence (Tuck, Yang, and Morril, 2013). This can be revealed through unhealthy family and parenting practices, including abuse and neglect among Indigenous WG2STGD+ People (Parsloe and Campbell, 2021). For this project, intersectionality allowed us to explore how factors such as gender, poverty, age, parental status, and location contribute to the experiences of Indigenous WG2STGD+ People in the carceral system.

TRAUMA-INFORMED CONSENT

NWAC defines trauma as “[a] traumatic event can be a single event that occurred either recently, in the past, or a long-term and chronic experience” (NWAC, 2022). Therefore, trauma-informed care (TIC) “[i]s a strengths-based framework that is grounded in an understanding of and responsiveness to the impact of trauma,” seeking to emphasize “[p]hysical, psychological, and emotional safety for both providers and survivors, and that creates opportunities for survivors to rebuild a sense of control and empowerment” (Center for Health Strategies, 2006). TIC should also “[a]im at ensuring environments and services are welcoming and engaging for service recipients and staff” (Trauma Informed Oregon, 2016).

According to the Center for Health Strategies (CHCS), the following 10 steps are required for TIC: Lead and communicate, engage clients in planning, train all staff, create a safe environment, prevent secondary trauma, build an informed workforce, involve clients in treatment, screen for trauma, use trauma-specific treatment, and engage partners (Center for Health Strategies, n.d.). TIC was incorporated into this project through Section II’s dedication to teaching how AIR occurs at the during education, training, and practice levels. TIC is a crucial tool that all health and social care providers require to provide kind, informed, and considerate care to Indigenous Peoples. Applying these criteria to incarceration and intergenerational trauma means allowing Indigenous Peoples to speak for themselves and places them as the experts on their needs. It also means acknowledging how traumatic experiences influence the health and well-being of Indigenous Peoples, and working towards not retraumatizing individuals who experience criminalization.



TWO-EYED SEEING/ETUAPTMUMK

To keep our research efforts firmly anchored to Indigenous Ways of Knowing, we employed Etuaptmumk or “Two-Eyed Seeing” in this paper. Indigenous and critical race scholars have long criticized Western research practices for perpetuating colonialism that can lead to the development of data, policies, and resources that are both ineffective and harmful (Howell et al., 2016). Conceptualized by Mi’kmaq Elder Albert Marshall, Etuaptmumk is the ability to “see from one eye with the strengths of Indigenous Knowledge and ways of knowing and from the other eye with the strengths of Western knowledge and ways of knowing, and to using both these eyes together, for the benefit of all” (Bartlett et al., 2012). Both perspectives are equally important and woven together. There is also a recognition that one approach may be more effective or appropriate than the other in certain instances. Indeed, there are significant and fundamental differences between Western and Indigenous ontologies. Wilson (2008) says that the ontological approach of many Indigenous groups reflects a relational approach to reality and the world, which is emphasized and held in the highest regard within Indigenous research methodologies.

In a literature review conducted by Wright et al. (2019), the authors identified six components that may be gleaned from applying Two-Eyed Seeing with integrity and respect. The six components are: (a) authentic relationships, (b) reciprocal research, (c) relational accountability, (d) Indigenous involvement, (e) Indigenous methodology, and (f) Western researchers deferring to Indigenous leadership (Wright et al., 2019). A respectful integration of both Indigenous and Western worldviews is required throughout the research process, not just at steps along the way. As such, a simplistic application of Two-Eyed Seeing undermines the entire premise of the approach (Wright et al., 2019), but employing intentional reflexivity that endorses both approaches is paramount. Two-Eyed Seeing is useful for exploring the connections between incarceration and MMIWG2S+ because it allows us to unpack colonialism bound up in the justice system while imagining solutions that are congruent with Traditional practices and ways of being.

Participants for this research project:

- Participant A
 - » wishes to remain anonymous in name and profession.
- Participant B
 - » wishes to remain anonymous in name and profession.
- Dr. Linda Mussell (she/her):
 - » lecturer at University of Canterbury, New Zealand
 - » member of the Criminalization and Punishment Education Project in Ottawa
 - » member of the Canadian Coalition for Children with Incarcerated Parents
 - » member of the Carceral Cultures Research Collective
 - » advisor for the P4W Memorial Collective in Kingston



SECTION I: EARS TO THE SKY

In this section, we trace the history of settler-colonialism in Canada, and its byproducts and intergenerational effects. We also highlight the interaction of Indigenous WG2STGD People with the Canadian carceral system and contrast this with the Indigenous justice system. Finally, we focus on the link between incarceration and MMIWG2S+.

HISTORY OF COLONIAL INCARCERATION IN CANADA

Colonialism refers to the domination of one group of people or groups of people by another group of people (Murrey, 2020, pp. 315–326). Colonialism can manifest into historical, multigenerational, and intergenerational trauma, social and economic marginalization, and institutional autonomy. Within the Canadian context, colonialism has meant ignoring the agency and expertise of Indigenous WG2STGD People while perpetuating systemic discrimination and racially targeted violence (National Inquiry, 2019, Volume 1a). Many decolonizing scholars concur with the notion that colonialism has never ceased and that the history of colonialism is interconnected with continuing colonial policies and historical events “spilling over into the present” (Warry, 1998, p. 84). As Kwagiulth (Kwakwaka’wakw) scholar Sarah Hunt explains, “[c]olonialism relies on the widespread dehumanization of all Indigenous Peoples — our children, Two-Spirits, men and women — colonial violence is understood to impact all of us at the level of our denied humanity” (National Inquiry, 2019, Volume 1a). Colonialism also includes policies, practices, and institutions that targeted Indigenous Peoples in ways that knowingly discriminated against them (National Inquiry, 2019, Volume 1a). Indeed, throughout much of the 20th and into the 21st century, governments and religious communities attempted to assimilate Indigenous Peoples through the residential and federal Indian Day Schools systems and child welfare agencies, and embedded within the Indian Act, among others. As a result of the work of the Truth and Reconciliation Commission (TRC), this chapter of Canadian history has become better known as a “cultural genocide” experienced by Indigenous Peoples. We see the continuation of the colonial agenda in the failure to properly consult with Indigenous groups over environmental land issues, in the lack of services in remote communities, in the justice and child welfare systems, and in the lack of resources for addressing violence (National Inquiry, 2019, Volume 1a).

LINKAGES BETWEEN COLONIALISM AND INCARCERATION

By its very nature, Canada’s carceral system is deeply rooted in colonialism and Western values and attitudes about Indigenous Peoples and culture. Therefore, when Indigenous WG2STGD People interact with the law or law enforcement, they must rely on a justice system that does not reflect their culture and was inherently designed to control and condemn Indigenous Peoples (National Inquiry, 2019, Volume 1a). The criminal justice system has failed Indigenous Peoples in many ways, perhaps most notably in the number of those who experience incarceration (Department of Justice, 2020). While the numbers of incarcerated Indigenous Peoples have risen substantially, the overall inmate population (Indigenous and non-Indigenous) has risen only slightly.



Many scholars have explored some of the systemic factors that create conditions where Indigenous Peoples are more likely to experience incarceration. Montford and Moore (2018) suggest that simply being an Indigenous Person is considered a risk factor, given the racialized nature of criminal justice system policies. Leitch (2018) concluded that Correctional Service Canada (CSC)'s risk assessment tools, specifically the Custody Rating Scale (CRS), are discriminatory. Its use is a violation of the rights of Indigenous incarcerated Persons under Section 7 of the Canadian Charter of Rights and Freedoms (1982). Leitch (2018) argued that CSC's use of the CRS is problematic, as some of the 12 items (e.g., sentence length; severity of current charge, alcohol and drug use) in its two subscales have been found to be non-predictive of the risk of incarcerated Indigenous Persons engaging in institutional misconduct or being convicted for such incidents (McGuire and Murdoch, 2021). This phenomenon leads to the hyper-representation of Indigenous Peoples in the Canadian criminal justice system. Furthermore, the overcriminalization of Indigenous Women is largely a result of colonialism both within and outside the penal system. Poverty, food insecurity, mental health issues, addiction, and violence—all parts of Canada's past and present colonial legacy—are systemic factors that lead to the incarceration of Indigenous Women.

Violence is a precursor for many Indigenous Women who are incarcerated: 90% of Indigenous Women who are incarcerated have a history of domestic physical abuse, and 68% have a history of domestic sexual abuse (Churcher, n.d., p. 37). Further, 61% of Indigenous Women who report domestic violence experience physical and sexual violence, compared with 32% of non-Indigenous women (Churcher, n.d., p. 35). Similarly, 53% of Indigenous Women, compared with 29% of non-Indigenous women, report that they feared for their lives in domestic abuse situations (Churcher, n.d., p. 35). While these statistics are striking, it is important to contextualize the "violent crimes" for which Indigenous Women are charged and convicted; most often, according to Churcher, the "violent crimes" that Indigenous Women commit are "defensive or reactive to violence directed at themselves, their children, or a third party" (Churcher, n.d., p. 35).

LIVED EXPERIENCE OF INDIGENOUS PERSONS INTERACTING WITH THE CANADIAN CRIMINAL JUSTICE SYSTEM(S)

The current relationship between Indigenous Peoples in Canada and the Government of Canada is one that has been heavily defined by the effects of settler colonialism and Indigenous resistance (Kitz, 2022). Imposed criminal justice systems (CJS) in countries such as Canada continue the settler state's goals of control, assimilation, and dehumanization (Chartrand, 2019; Cunneen and Tauri, 2017). Due to the ongoing and intergenerational effects of colonialization, the majority of incarcerated Indigenous WG2STGD People inside and outside of carceral institutions have mental health disorders yet have little access to appropriate mental health programs (National Inquiry, 2019, Volume 1a). Most of the mental health programming offered in prisons is for the general population, but 50% of Indigenous WG2STGD People who are incarcerated are in maximum security prisons designed to house inmates who present a "greater threat to the safety of the public," require a higher degree of supervision, and/or have a higher chance of attempting to escape (Correctional Service of Canada, 2019). Savannah Gentile, the Director of Advocacy and Legal Issues for the Canadian Association of Elizabeth Fry Societies, testified for the National Inquiry that women with mental issues are over-represented in maximum security placements (National Inquiry, 2019, Volume 1a). Consequently, incarcerated Indigenous WG2STGD People, who need access to mental health resources the most, have the heaviest restricted access to these programs.



In addition to mental and emotional violence, Indigenous WG2STGS People lose their cultural identity and spiritual well-being while they are incarcerated and in everyday life through settler colonialism (National Inquiry, 2019, Volume 1a). Patricia Tate, an employee of the Canadian Association of Elizabeth Fry Societies, testified at the National Inquiry about the lack of cultural programs offered to Indigenous WG2STGD inmates that focus on diverse Indigenous cultures. She also highlighted that a challenge exists to provide culturally appropriate resources in prisons because the “ceremonies that are being offered are a one size fits all ... women within an institution represent a vast variety of culture and traditions, and unfortunately, those traditions are not always being honoured and are rarely being honoured, quite honestly” (Tate, p. 22). Rather than providing general programming, a distinction-based approach respects and acknowledges the unique culture, histories, rights, laws and governments of Indigenous Peoples (Ministry of Indigenous Relations and Reconciliation, 2022).

CONNECTIONS WITH MMIWG2S+

In their descriptions of encounters, families and survivors who spoke at the National Inquiry consistently referred to four pathways (historical, multigenerational, and intergenerational trauma; social and economic marginalization; maintaining the status quo and institutional lack of will; and ignoring the agency and expertise of Indigenous WG2STGD People). These pathways continue to enforce the historic and contemporary manifestations of colonialism that lead to additional violence (National Inquiry, 2019, Volume 1a). This disproportionate experience of violence is one of the reasons that Indigenous Women are over-represented in the Canadian prison population and demonstrates a clear connection between the violence that missing and murdered Indigenous Women and Girls experience and the likelihood of experiencing incarceration (National Inquiry, 2019, Volume 1a). Maintaining a culture that normalizes violence against Indigenous WG2STGD People shows that Canadian institutions are failing in their mission to protect Indigenous WG2STGD People and to prevent the MMIWG2S+ genocide.

From the testimonies of survivors and their families in the National Inquiry, one discourse that emerges is that the actions of many stakeholders within Canadian institutions contribute to maintaining a culture that normalizes violence against Indigenous WG2STGD People and to a failure to prevent the MMIWG2S+ genocide (National Inquiry, 2019, Volume 2). The National Inquiry also found a connection between intergenerational trauma—a consequence of colonialism—and incarceration. Churcher said, “[t]he unfortunate reality is that the long-term effects of colonialization and intergenerational trauma that our country has perpetuated against Indigenous women continue to be the principal factors in their being missing, murdered, and/or in prison” (National Inquiry, 2019, Volume 1a). Furthermore, the National Inquiry suggested that the “silencing of [Indigenous] women through various colonial measures is a contributor to the lack of safety and justice” they experience today. This “lack of safety and justice” is compounded by the intersection of identifying as a woman and Indigenous and thus being subject to both “gendered and racial violence” (Adema, 2015). When it comes to missing and murdered Indigenous Women and Girls, it appears “nobody is listening ... nobody seems to care ... there’s no wrongdoing of the police in this country,” as they are not held to account (National Inquiry, 2019, Volume 1a).

All in all, the impacts of colonization historically and of continued colonial attitudes, structures, and systems today directly contribute to the rights violations we see in the incarceration of Indigenous WG2STGD People and the MMIWG2S+ genocide (National Inquiry, 2019, Volume 1a).



SECTION II: EARS TO THE GROUND

Based on the identified codes, we constructed the following three themes from our interviews with experts in the field of incarceration in Canada:

1. intergenerational pain of Incarceration
2. hyper-imprisonment as the failure of multiple institutions
3. Indigenous-led care and access to culture are critical for disrupting cycles

INTERGENERATIONAL PAIN OF INCARCERATION

The first theme we constructed was a recognition of the intergenerational pain caused by incarceration. Participants acknowledged the ways in which the carceral system is inherently colonial, and how Indigenous WG2STGD People are targeted by the police, judicial system, and imprisonment institutions to a significantly higher degree than non-Indigenous women and how their families are affected. This finding is supported by an abundance of literature which states that Indigenous Women are vastly over-represented in Canada's federal prisons and represent the fastest-growing population in Canada (McGuire and Murdoch, 2022, p. 529). Dr. Linda Mussell uses the term "hyper-imprisonment" when discussing incarceration and Indigenous Peoples in Canada because "it's not the case that there's an appropriate amount of imprisonment of Indigenous WG2STGD. I think bound up in the term over-imprisonment is this assumption that there is a 'right' amount. Instead 'hyper-imprisoned' draws attention to the fact that that indigenous peoples are being targeted a huge scale, and far more than more privileged people like white settlers." Participant A expressed a similar sentiment, "I don't think there's an Indigenous family in this country who has not had an Indigenous family member incarcerated." The challenges caused by incarceration are ubiquitous among most Indigenous Peoples living in Canada. We thus chose to employ the term "hyper-imprisonment" throughout this paper.

VIOLENCE IN PRISON IS DIRECTLY RELATED TO THE MMIWG2S+ GENOCIDE

Participants identified that one of the important connections between intergenerational incarceration and the MMIWG2S+ crisis is the systemic physical, emotional, and spiritual violence exhibited towards Indigenous WG2STGD People. It is well documented that Indigenous Women experience physical violence at a much higher rate than the general population (Hargreaves, 2017, p. 20). Participants highlighted that it is often due to circumstances of poverty that they encounter violence, are often criminalized for this experience and are then incarcerated, where they inevitably experience more violence. This cycle not only compounds trauma but reinforces the violence that Indigenous WG2STGD People live with. Indeed, the intergenerational effects of incarceration create conditions of vulnerability for Indigenous WG2STGD People, which make them susceptible to experiencing violence associated with MMIWG2S+. Dr. Linda Mussell highlighted the historical and ongoing connection between colonial violence and the carceral state. She said, "[t]he violence that's experienced in prisons is interconnected with the violence that we're seeing under the ongoing genocide. People are leaving prison worse than when they entered. They may have lost custody of their children, which is extremely difficult, especially for Indigenous Women with legacies of residential schools, the Sixties Scoop, and the Millennium Scoop.



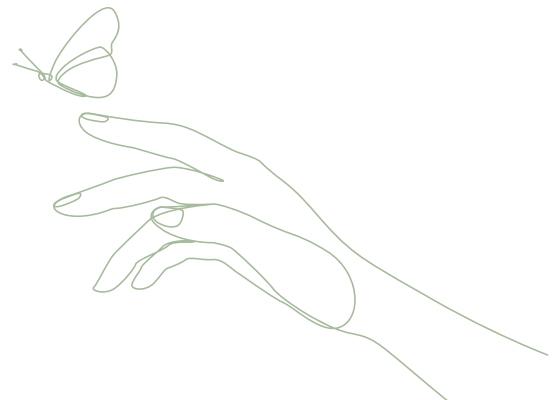
Then parole conditions set them up for failure and re-incarceration. So, all of this to say, the prison system is not healing, it's not creating better conditions for life, in fact it is putting people in a far worse position, and it's creating vulnerability." Her sentiment was elucidated by findings within the Inquiry that demonstrate the linkages between experiences of violence and incarceration (National Inquiry, 2019, Volume 1a).

Participants also shared examples of the ways that each level of the justice system creates, sustains, or manifests violence towards Indigenous WG2STGD People and thus contributes to the MMIWG2S+ genocide. Indigenous WG2STGD People are over-surveilled by police, parole officers, and social workers, and seem invisible to and excluded from many of the investigative processes of police, which the National Inquiry documented. Participant A questioned this dissonance, "We are so over-surveilled; they're always investigating us. But how is it that they don't even know how these deaths happen? How do these disappearances happen? Yet, we're watched all the time." Countless testimonies at the Inquiry about the unwillingness of police to take the MMIWG2S+ genocide seriously point to an entrenchment of systemic racism within the "justice system" and the ways in which the colonial agenda is still being enacted through police practices (National Inquiry, 2019, Volume 1a). Roots of colonialism have created conditions where Indigenous Women are seen as dispensable and the endemic of violence towards them as natural. It is imperative that this systemic racism be debunked, and this group awarded basic human rights and respect.

DISRUPTION OF FAMILY AS A COLONIAL TOOL

Participants collectively pointed to the historical and intergeneration trauma that occurs when a family or community member is incarcerated. They also said that the disruption of the family is a colonial tool, one that is being perpetuated through hyper-imprisonment and is connected to the MMIWG2S+ crisis. Certainly, since the onset of colonization, the state has endeavoured to erase Indigeneity from the land known as Canada, with the primary mechanism being the systemic disruption of families. Early efforts included dispossession of land and forced relocation (Komarnisky et al., 2016, p. 387).

Similarly, the goal of residential and federal Indian Day Schools was to "remove the Indian in the child" by physically and spiritually separating them from their parents (McGuire and Murdoch, 2022). Since the Sixties Scoop to present day, the over-involvement of the child welfare system in the lives of Indigenous families has kept generations from learning and healing together and has perpetuated the intergenerational trauma of colonization (McGuire and Murdoch, 2022). The hyper-imprisonment of Indigenous Peoples is remarkably similar and also very effective within the colonial agenda to keep families disconnected. Both children and parents are left vulnerable; they are exposed to additional violence and isolation and are forced to endure additional challenges due to colonialism.



Participant A said state-enforced familial disruptions create circumstances where cycles of trauma are created and sustained, “Residential schools are an example of our people being imprisoned. This is just another way of incarcerating our people, right? Child welfare as well. You get taken away from your family and placed with strangers or you’re put in a group home, you’re taken away from your family. In all those situations. Our people have been taken away from each other and that reduces our ability to rely upon our family who can keep us safe.”

Participant B connected the ways in which Indigenous families are disrupted by the hyper-imprisonment of Indigenous Peoples with the residential and federal Indian Day Schools system, “Just look at the residential school experience where the children get taken out of the community and put in jails, we’ll call them jails, for lack of better word. What that did to the family, the whole family system, and the whole community? It’s not any different. The only difference is that now it’s the parents who are taken away, and put in jail, right? Leaving the children out there to fend for themselves.” For children, the removal of their parents through incarceration creates emotional, physical, and spiritual pain that can invoke confusion, grief, and anger. If these feelings are unacknowledged, they may be led to circumstances where they are further isolated and more vulnerable. In turn, they may end up in similar circumstances as their parents and more likely to engage in crimes to survive and be involved with the justice system, or be put at risk of violence, thus perpetuating the cycle.

Indigenous WG2STGD parents who are incarcerated often state they must navigate the challenges of the prison system and attempt to work with the foster care system (to arrange phone calls or visitations) at the same time. Scott (2019) conducted an extensive review of the experiences of mothers who were incarcerated and identified challenges that can include difficulty connecting with social workers, working with foster parents, and organizing visitations. Often, one of the biggest challenges with visitations is the geographic proximity of the individual’s family to the facility. Because there are so few “women’s only” institutions in Canada, incarcerated individuals are often sent far away from their families and communities, making it expensive and time-consuming for them to visit (Baldry, 2009). The current lack of effort to keep Indigenous families together was exemplified in the interviews with the participants, who shared the discrepancies between what families who receive federal income assistance are paid compared to payments to foster families. As an example, foster parents in British Columbia can receive monthly salaries of up to \$3,500 per child (in addition to other household income) (Government of British Columbia 2023), while a person on income assistance who receives \$733 per month is only able to receive \$709 per child through the federal and provincial child tax benefits (Government of British Columbia, 2023). Instead of investing in the wellness of Indigenous families and limiting the number of children entering the system, the government is instead distributing funds to non-Indigenous households.

Another link identified by participants is the emotional violence caused by the grief and loss of being separated from loved ones due to incarceration or death. Participant B said the distress that some children feel when a parent is incarcerated can create circumstances where a child is more likely to experience violence and incarceration. “When there are things in our life as children that we don’t understand, and it’s really chaotic, we live our lives trying to understand that chaos. Sometimes as we grow up, we end up in circumstances that are identical to that chaos we experienced as a child. Because we are trying to figure it out. We’re trying to understand it. So, the cycle just goes on and on and on.”



For folks who are incarcerated, being disconnected from family is similar to the spiritual violence of being disconnected from culture and land. Much like the efforts of assimilation during early colonization and the residential and federal Indian Day School system, the hyper-imprisonment of Indigenous WG2STGD+ People creates a disconnection from Traditional Knowledge Keepers, Elders, and ceremonies. Dr. Mussell called attention to intergenerational trauma outside of a parent-child dynamic: "Often in the literature people just focus on parents and kids, but they're not seeing the full picture of all of these traumas that are compounded over time among many family members." Participant A said, "I was really struck by the intergenerational aspects of incarceration. In terms of some of the Indigenous Women that I talked to, they were incarcerated along with a sister, along with a mother. It seemed like the entire family was in prison."

We can see how these fundamental colonial institutions are operating exactly as they were intended and without a strong connection to family, community, and culture. Indigenous WG2STGD People will continue to be vulnerable to experiencing the kind of violence that is associated with MMIWG2S+.

MARKS OF IMPRISONMENT

Participants also discussed the ways in which experiences of imprisonment leave a lasting impact on Indigenous WG2STGD People, one that affects their health, self-determination, and access to culture. Dr. Mussell said: "Even though they're no longer in prison, they still bear the mark of having been imprisoned. One example of a mark of imprisonment is the rupturing of relationships with family, land, and Traditional Culture. For people who experience incarceration, their identities as parents and community members may be negatively impacted by their time 'away.' Having to explain why they have been away can invoke feelings of internalized judgment and shame due to the stigma of incarceration. This may cause individuals to not return home or isolate themselves from their families and communities, which we heard is paramount to keep Indigenous WG2STGD People safe from violence. Additionally, the inability to get jobs due to having a criminal record plays a role in perpetuating economic loss and instability and creates circumstances that put individuals at risk."

HYPER-IMPRISONMENT AS THE FAILURE OF MULTIPLE INSTITUTIONS

All participants shared examples of the ways in which cultural and physical genocide of Indigenous Peoples is being perpetuated through institutions like the carceral state, child welfare system, and disconnection from land, as well as the specific ways that these phenomena are connected to the MMIWG2S+ genocide. Dr. Mussell outlined the ways that colonialism is being enacted through these institutions, including creating the conditions where Indigenous WG2STGD People are vulnerable to being criminalized. She went on to share that "imprisonment is the failure of multiple institutions that are creating these conditions of criminalization."



CARCERAL COLONIAL SYSTEM

In particular, the colonial canon and carceral system are inherently intertwined because they were created at the same time and for the same purpose. Dr. Mussell said that “the carceral state emerged at the same time as the colonial state in terms of repression and violence, assimilation, and control of Indigenous Peoples. So, there’s multiple institutions, policing, prisons, child removal, hospitals, and all of these have developed under colonialism and the carceral state.” The ways in which these state-led institutions are interconnected and rooted in colonialism mean that each one is fundamentally implicated in the hyper-imprisonment of Indigenous WG2STGD People. Later in the interview, Dr. Mussell went on to correct herself when she said, “it’s not necessarily failure. These institutions are operating as intended and they’re targeting Indigenous Peoples on hyper scale. Looking at the formation of the colonial and carceral state is really useful to remember how these institutions were formed with the purpose of assimilation and suppressing Indigenous Peoples.”

Understanding the carceral colonial state as a fundamentally interconnected entity is important for unpacking the connections between hyper-imprisonment and MMIWG2S+ because within the Inquiry’s Calls to Justice, there is a recognition of the need for a reimagining of these systems of criminalization. One of the seven principles of change is to employ a decolonizing approach, which is described as:

“A way of doing things differently; it challenges the colonial influence under which we live by making space for Indigenous perspectives that are often cast aside. It involves recognizing inherent rights through the principle that Indigenous Peoples have the right to govern themselves in relation to matters that are internal to their communities; integral to their unique cultures, identities, traditions, languages, and institutions; and with respect to their special relationship to the land. Our approach honours and respects Indigenous values, philosophies, and knowledge systems. It is a strength-based approach, focusing on the resilience and expertise of individuals and communities themselves.”

(Reclaiming Power and Place, 2019, p. 2)

Thus, until one recognizes that colonization is enmeshed within the colonial system, efforts to stop the MMIWG2S+ genocide will be futile.



Participants also talked about how, at each level of the justice system, Indigenous WG2STGD People are implicated in systemic processes of criminalization. Within these processes, there is what Grekul (2020) presents as the “victimization-criminalization-incarceration cycle,” whereby societal, institutional, and individual factors intersect to create an incarceration feedback loop that is difficult to escape.

Participant A shared a personal story of their sister who was imprisoned and, upon her release, was labelled by police as a master manipulator. When she needed police assistance, they would see her name and her history and assume that she was being manipulative. “So, the help that someone needs legitimately is not offered when they are labelled. I think a lot of our women are labelled in that way because they are living hard lives. So, it’s trauma upon trauma upon trauma, and in the midst of that trauma, they’re trying to survive. I think it’s really important that that be documented because our women are labelled as being liars, and they’re not getting equal service from the police. They get poor treatment, and they’re ignored when they need help.”

Participants shared specific examples of the ways in which systemic interventions, such as imprisonment, can create vulnerabilities which can then lead to either re-imprisonment and/or MMIWG2S+. Participant B said, “The women that we work with, who are coming out of incarceration, I kind of see them as wounded warriors. We grow up with this unresolved grief, the intergenerational grief. If we’re anesthetizing ourselves with substances, if we get angry at the system, and we lash out, then we’re incarcerated.”

As a mechanism to not only disrupt this cycle but also protect Indigenous WG2STGD People from the MMIWG2S+ genocide, participants encouraged shifting the narrative to understanding the ways that poverty creates conditions where infractions of the law are instead seen as crimes of survival. If we are to recognize the ways in which colonialism and its institutions have created circumstances where Indigenous WG2STGD People are more susceptible to being implicated within these processes of criminalization, then it is easy to see that true justice would mean providing those implicated in crime with the supports that they need instead of incarceration.



THE INTERCONNECTEDNESS OF INSTITUTIONS

Throughout the interviews, all participants continuously referred to other systems and governing bodies that are interconnected and how this interconnectedness is an important link between hyper-imprisoned Indigenous WG2STGD People and the MMIWG2S+ crisis. The primary institutions that affect those experiencing imprisonment, as we heard from participants, were the child welfare system, housing instability, and the justice system. The ways in which these institutions reinforce one another create feedback loops which in turn make Indigenous WG2STGD People more vulnerable to racialized, gender-based violence and being criminalized. For example, when a woman with children is incarcerated, and there is no family for the child to live with, the children then become part of the child welfare system, which incites an entirely new set of issues and challenges.

Participants also discussed the ways that each of these institutions feed into one another, thus making it difficult to disrupt a cycle or make sustainable changes. Participant A shared an analogy about the legacy of colonialism, “I think about it as a cancer, right? And you think about when cancer goes untreated, it travels throughout the whole body. What do they call that metastasizing? That’s what we have here.” Dr. Mussell described how she saw a linkage between genocide toward Indigenous Peoples and interlocking systems of oppression: “The violence that’s experienced in prisons is interconnected with the violence that we’re seeing under the ongoing genocide. The carceral state is this overarching umbrella, that includes policing, institutional monitoring, interpersonal surveillance, criminalization, and imprisonment.” She went on to describe the value in seeing these interconnections, “to describe it as a carceral colonial state and to take that sort of step back and to look at how so many institutions are interconnected is useful. Often there’s a focus on people experiencing one institution in isolation without looking at this entire story.”

Participants aptly shared that the separation from family, land, and culture through experiences of imprisonment is reminiscent of what Indigenous children experienced in residential and federal Indian Day Schools. An important distinction, however, is that it is typically the parents, Aunties, Kookums, or older siblings who are taken away to be incarcerated and the children left on their own to navigate the foster care system, which then makes them more vulnerable to violence. Given the astonishing number of Indigenous Children in the child welfare system and the connections between that system and the hyper-imprisonment of Indigenous WG2STGD People, in addition to the MMIWG2S+ genocide, it is critical that this connection be disrupted immediately.

CARCERAL TOOLS OF IMPRISONMENT

Participants also talked about how the “justice” system targets Indigenous Women and sets them up to experience violence associated with MMIWG2S+. Dr. Mussell calls the following “tools of imprisonment”: judgment and discrimination; labelling Indigenous Peoples as a “risk”; binarious constructions of gender; and procedures around release. Participant A spoke of the racism and prejudice that often lead to criminalization and judgment: “There are assumptions that we’re all alcoholics or that we live risky lives and therefore the lives of our children are at risk as well.” They went on to make a connection between the targeting of Indigenous WG2STGD People and the crisis of MMIWG2S+, “which I find so amazing when you consider the surveillance of our People.”



A significant finding for us was how Indigenous WG2STGD+ People are **hyper visible to the justice system in certain ways and invisible to it in others**. The finding that Indigenous WG2STGD People are over-surveilled by police, parole officers, and social workers is supported by an abundance of literature which finds that Indigenous Women are vastly over-represented in Canada's federal prisons and represent the fastest growing population in Canada (McGuire and Murdoch, 2022, p. 529). A report from 2016–2017 found that more than half of the women held in secure units were Indigenous and could not access any of the services or programs offered to the general population (Zinger, 2018). However, the MMIWG2S+ genocide reveals there is systemic apathy toward the crimes committed against Indigenous WG2STGD People.

During a rich conversation with Dr. Mussell, she unpacked the words "risk" and "at risk" as a tool of imprisonment. She said, "Usually I move away from using the term "at risk" because it's so heavily monopolized by the states to their use of risk tools." Dr. Mussell explained that in the prison system there are risk assessment tools that ultimately place Indigenous Women at a higher risk level, which inevitably means that they are put into higher security prisons. "Risk governance in this way makes it so that prisons are geared towards responding to risk as opposed to responding to human needs," said Dr. Mussell. She went on to draw attention to the fact that "focusing on risk also removes responsibility for why Indigenous Women are experiencing hyper confinement and hyper violence. Saying women are at risk, as opposed to focusing on why or how the state is creating these conditions shifts responsibility or individualizes these experiences.

Participants also spoke of the challenges that pertain to gender and the ways in which the carceral system is set up for a gender binary and creates further challenges for Indigenous individuals who identify as Two-Spirit, Transgender, and Gender Diverse. Dr. Mussell said, "The system is really geared towards a gender binary. In fact, a lot of people talk about how this system is structured for men and wasn't built for women. So, you see people who are placed in institutions that don't align with their gender. You see discrimination from staff. You see a lack of resources. You see people being placed in segregation because the institution doesn't know how to support them. They think it's for their own safety, but segregation and being isolated can be the worst thing you can do for anyone."

Within the context of hyper-imprisonment and the MMIWG2S+ genocide in Canada, the safety of women leaving incarceration is paramount. We heard from participants that it is because of the interconnectedness of institutions that the safety of Indigenous WG2STGD People is compromised when they are released. Participant B spoke of disturbing practices where institutions release women at late hours of the night, in unfamiliar areas where there is no public transit, without seasonally appropriate clothes; violent perpetrators, like human traffickers and drug dealers, know this and are likely to take advantage of their vulnerability. They said, "When women are released, if there's not a proper plan of care in place, they're just sitting ducks because the traffickers are out there. The dealers are out there. And we know where that leads to, that leads to murdered and missing Indigenous women."

Policies and practices like this point to the contradiction: Indigenous Women are over-policed and seen as dangerous enough that they must be incarcerated but, upon release, are not worthy of protection; there is no concern for how their imprisonment makes them more vulnerable to violence or to committing or recommitting crimes of violence.

Roots of colonialism and white supremacy have created conditions where Indigenous Women are seen as dispensable and the endemic of violence towards them is seen as natural.



INDIGENOUS-LED CARE AND ACCESS TO CULTURE ARE CRITICAL FOR DISRUPTING CYCLES

“For me, I believe that culture is life. You need to know who you are and where you come from.” – Participant B

Much like the efforts of assimilation during early colonization and the residential and federal Indian Day School system, the hyper-imprisonment of Indigenous WG2STGD People creates a disconnection from access to culture, Traditional Knowledge Keepers, Elders, and ceremony. Participants felt that access to culture is precisely what people affected by hyper-imprisonment and MMIWG2S+ need if they are to heal from the intergenerational trauma. Every participant highlighted the importance of making Indigenous-led and -centred cultural healing and education available for all those affected by the carceral system and colonialism. While various culturally based initiatives do exist across Canada, participants identified a few of the systemic challenges that need to be addressed in order for the programs to be effective. These include access to funding, consistent staff and cultural partners to facilitate, the provision of culturally sensitive and distinctions-based programs, and the removal of state-led restrictions like those resulting from the COVID-19 pandemic (Ricciardell, 2021).

The participants did not feel that incarcerations were providing adequate rehabilitation or support for those who had been criminalized. They also criticized these rehabilitation/support programs for their colonial foundations and for being offered inside the institutions themselves. Dr. Mussell questioned the efficacy of the “rehabilitation” efforts within incarceration facilities because there is an overfocus on the individual and not on systemic conditions. “I think rehabilitation programming is not focused on transforming social conditions that people are coming from. It’s not looking at providing housing, health care, education, nutrition, or trauma support to communities. It’s definitely not redressing any colonial violence. It’s not transforming institutions and relationships. It’s not about giving land back or giving power back to communities.”

Healing lodges as an alternative to government-sanctioned carceral institutions were raised by all participants. They are carceral settings designed specifically to provide culturally appropriate services, Elder services, and ceremonies and programs that work to prepare individuals for their eventual release (Hamilton, 2019). Placing importance upon preparing for release is critical within the context of MMIWG2S+, and being able to participate in healing programs, parenting classes, vocational training, and counselling services is essential to ending the cycle between incarceration and MMIWG2S+.



While participants agreed it is important to prioritize cultural safety, as it is done in healing lodges, they did not agree on their efficacy. Four of the 10 healing lodges in Canada are run by Correctional Services Canada (CSC). Dr. Mussell acknowledged that healing lodges offered a number of benefits compared to a traditional institution, but expressed concerns about focusing on adding traditional elements to the system as it exists, as the incarceration system is founded in colonialism. She shared:

“Healing lodges are still carceral settings, but they do offer more cultural benefits. However, they’re still small scale and time limited. Often something I hear from people who have lived experiences, is the importance of being able to access support on a really long-term basis because the harms that took place that people are trying to heal from took generations to form, and you can’t deal with something in two weeks, two months, or even two years. So, I really think looking at changing the face of the prison or making it more culturally sensitive or offering more programs isn’t going to be the solution. I do think they’re better than other prisons in some dimensions, but they are not the panacea.”

Dr. Mussell also talked about the concept of “carceral claw back”: “It is this idea of systems always reverting to more of this risk focused model. So even if they put reforms in place, over time, they kind of peel back, you just see this progression, this claw back and that includes different kinds of changes that were meant to support Indigenous Peoples.” This finding was exemplified by Participant B, who spoke of how restrictions due to the COVID-19 pandemic mean that they are not moving women from maximum security to minimum security prisons, and therefore, fewer women are able to access any programming at all. The pandemic restrictions also mean that visitors and program facilitators like Elders are not allowed to enter the institutions.

Healing lodge programs must be impervious to funding changes or carceral clawbacks. They must be seen as an important decolonizing tool that helps prevent the re-incarceration/ recidivism of Indigenous WG2STGD People and MMIWG2S+.



RECONNECTION TO FAMILY

As well as needing access to culture as a way to break cycles, every participant emphasized the importance of re-establishing a connection to family during or after imprisonment in preventing the violence associated with MMIWG2S+. Participant A talked about the need for a consistent connection to family and community while incarcerated. “For me, one of the most important things for our incarcerated relatives is to have constant contact with their families when they’re incarcerated.” Participants also identified how different intersections make the ability to stay connected more difficult, “But we know that’s not possible for some of our families, because of poverty, they don’t have the ability to stay connected with their family. I think there’s also a gender divide there too, there might be an opportunity for that child to visit a mother in prison, but not one when the father is in prison.”

Unfortunately, several systemic reasons make it difficult for incarcerated individuals to sustain frequent communication with their families and communities (McGuire et al., 2021; Reclaiming Power and Place, 2019). In fact, Indigeneity itself is considered a “risk” factor that disproportionately places Indigenous women in maximum security prisons and in solitary confinement, both of which significantly limit access to outside communication with family and community (McGuire et al., 2021; Reclaiming Power and Place, 2019). Incarcerated individuals often experience connection to family and the outside via phone calls and internet time as “privileges” or “awards,” rather than a fundamental and deserved right.

Restrictions due to COVID-19 have meant that more individuals are kept in isolation and solitary confinement, which restricts their access to amenities necessary for maintaining connection. On the reverse side, because of the conditions of colonialism and settler colonialism like poverty and geographic isolation, family members who are on the outside are not always easy to reach due to limited access to phone service and internet. Similarly, for children who are in foster care and have a parent who is incarcerated, there may not be support from the foster parents or social worker to ensure there is a sustained connection to the parent. Children may not be aware of their rights to have access to contact, or they may be too young to articulate this right.

Without a strong connection to family, land, and community, Indigenous WG2STGD People who have experienced incarceration are at a significantly higher risk of violence.

Throughout the data collection and analysis stages of this project, it became clear that the links between the intergenerational effects of incarceration and the ongoing MMIWG2S+ crisis are deeply engrained and reinforced by the Canadian “justice” system. Participant B felt that the entire justice system requires an “overhaul” to address the challenges that Indigenous People who have been implicated in “the system” endure. The need for restorative justice or a reframing of the justice system that rids itself from its colonial roots was made clear. The literature is also rich with examples of restorative justice nationally and internationally.

Restorative justice is the effort to transform the way we think of punishment for wrongful acts. It comprises four categories: repair, restore, reconcile, and reintegrate (Menkel-Meadow, 2007, p. 10.2).



Restorative justice within the context of the MMIWG2S+ genocide and the hyper-imprisonment of Indigenous WG2STGD People requires a widespread reimagining of the processes of criminalization and an awareness of how colonial state-led institutions are implicit in that process. Reframing the justice system would help to remove the marks of imprisonment that participants referenced, help Indigenous WG2STGD People reconnect with family and society, and improve their safety from gender- and race-based violence associated with MMIWG2S+.

While these insights are profound, they are neither novel nor new. The experts who we interviewed are among countless Indigenous scholars who have called for a decolonial reform of state institutions like carceral institutions and of the child welfare system. Dr. Bennett shared her exasperation when she said, **“It just seems like, you know, we’re trying to educate, but is anyone listening?”**



CONCLUSION AND RECOMMENDATIONS

“I think there should be two separate justice systems: an Indigenous justice system and Canada’s justice system.” – Participant B

In response to findings by the National Inquiry that almost 100% of the women who were incarcerated identified as having a family member who was missing and/or murdered, NWAC has sought to identify what creates and sustains this connection. We heard about the emotional, psychological, spiritual, and cultural pain invoked by being imprisoned for both the person who is incarcerated and their family members; the consequences are long-standing. While we know that Indigenous WG2STGD People are imprisoned at a higher rate due to conditions created by colonialism, we also found that the ways in which state-led systems like health care, child welfare, and education are interconnected and rooted in colonialism contribute to ongoing assimilation and cultural genocide actions.



In fact, the direct link between incarceration, the MMIWG2S+ crisis, and the child welfare system mirrors Canada's past genocidal practice of residential and federal Indian Day Schools (McGuire, et al., 2021). Many politicians and activists have long argued that current child welfare services are the modern implementation and continuation of residential schools (Wright, 2019). When Indigenous parents and caretakers experience overincarceration and police violence, Indigenous children are disproportionately over-represented in child welfare services (Reclaiming Power and Place, 2019). There are more Indigenous children in the foster care system today than at the height of residential schools (Wright, 2019). Given our findings, our recommendations are as follows:

1. Implement Indigenous-led programs that challenge and counter existing colonial institutions like child welfare.
2. Reimagine the justice system in a way that addresses the hyper visibility and invisibility of Indigenous women to the state.
3. Make active strides to protect Indigenous WG2STGD People from colonial, gender-based violence. This includes recognizing the effects that experiences of imprisonment have on people.
4. Develop strategies and implement policies to support women as they are leaving incarceration and to create conditions where they are physically and emotionally safe and reconnected with their families and/or communities.
5. Provide long-term, sustainable healing to all individuals who are suffering from experiences of incarceration and/or the MMIWG2S+ crisis.
6. Reimagine what "justice" looks like without any kind of colonial influence.



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APPENDIX A

Consent Information Letter

Title of Project: Five Policy Research Papers on Missing and Murdered Indigenous Women, Girls, and Two-Spirit People

Incarceration and Intergenerational Effects of MMIWG

Names, Titles, and Contact Information of Researchers

Supervisors	Principal Investigators
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INTRODUCTION

You have been invited to participate in a two-hour interview to help with data collection on the following project Incarceration and Intergenerational Effects of MMIWG. This project is funded through Crown-Indigenous Relations and Northern Development Canada (CIRNA). The Incarceration and Intergenerational Effects of MMIWG project is one of five projects begin conducted within the Native Women’s Association of Canada (NWAC) as part of our dedication and commitment to NWAC’s Call to Action Plan. NWAC continues to conduct and collect data surrounding the ongoing crisis of Missing and Murdered Indigenous Women, Girls, Two-Spirit, Transgender, and Gender-Diverse people (MMIWG2S+) to eradicate anti-Indigenous and gender-based violence against Indigenous Women, Girls, Two-Spirit, Transgender, and Gender-Diverse people (WG2STGD). We thank you for honouring us with your time, knowledge, and solidarity.



NWAC is the leading voice on research and policy for Indigenous WG2STGD people, especially as it pertains to the intergenerational effects of MMIWG2S+ and incarceration, that contribute to the ongoing genocide of MMIWG2S+. As per NWAC's Call to Action Plan, which addresses the systemic issues related to MMIWG2S+, a recognition of distinct Indigenous identities, cultural safety, and a trauma-informed approach must be upheld and respected in order to achieve substantive equality and human rights, a decolonized approach to health care, the inclusion of families and survivors, self-determination, and Indigenous-led solutions and services (NWAC, 2021).

BACKGROUND

This research paper will explore the connection between the lived experience of Indigenous Women, Girls, Two-Spirit, Transgender, and Gender-Diverse People who have been affected by intergenerational trauma and the ongoing MMIWG+ genocide and the over-incarceration of Indigenous Peoples in Canada. The paper will explore the community-level social-economic factors that create and sustain a negative feedback loop between experiences of incarceration and the MMIWG+ genocide, which ultimately consumes the freedom, health, well-being and livelihoods of Indigenous Women and Girls.

YOUR PARTICIPATION

No formal approval from a research ethics board was required for this research, as per CINRA however, NWAC is dedicated to acknowledging that participation in this type of research may be challenging due to the nature of the topics being explored. All interviews will be virtual and a maximum of two hours in length. Participants in this interview can remain anonymous should they choose. With the explicit prior permission of interviewees, interviews will be recorded for transcription and accuracy purposes. All interviewees can participate without being audio. Interviewees may choose to withdraw their participation at any point for any reason, or request their contributions be withdrawn, and/or their transcript and audio recording be destroyed. All participants will be compensated for their time in the form of a \$480 honorarium for their time. This will be provided even to those who withdraw their consent following the interview. NWAC is committed to interviewees being safe, comfortable, and free to share their experiences and thoughts without judgement. If there is any way the research team can provide additional assistance to ensure these parameters, please let us know.

DISCLAIMER:

The content covered in the interviews will pertain to the ongoing genocide of MMIWG2S+ and may contain sensitive questions regarding the best ways to explore, collect data on, and distribute. The topics may be difficult or sensitive. Below are some resources if you wish to speak to a grandmother or access a support line following the interview.



Crisis Lines

Métis Crisis Line is a service of Métis Nation British Columbia. Call **1-833-MétisBC (1-833-638-4722)**.

Hope for Wellness Help Line offers immediate mental health counselling and crisis intervention by phone or online chat. Call toll-free: **1-855-242-3310** or start a confidential chat with a counsellor at hopeforwellness.ca.

Indian Residential School Crisis Line is a national service for anyone experiencing pain or distress due to their residential school experience. Call toll-free: **1-866-925-4419**.

Kuu-Us Crisis Line Society provides crisis services for Indigenous people across BC. Reach the Adults/Elders line at **1-250-723-4050**; www.kuu-uscisline.com.

National Women's Association of Canada Resources

National Women's Association of Canada Resiliency Lodges Grandmothers

Available Mon-Fri 9am-12pm and 1pm-4pm (EST). All numbers are toll-free.

Esther Ward
Grandmother
1-833-652-1381

Isabelle Meawasige
Grandmother
1-833-652-1382



APPENDIX B

Intergenerational Incarceration & MMIWG2S+ Semi-structured Interview Guide

Questions

1. Do you feel that there is a link between the over-incarceration and criminalization of Indigenous Women, Two-Spirit, Transgender, and Gender-Diverse People and the MMIWG2S+ genocide?
 - » How do you know this to be true? Why or why not? Please feel free to share a story.
2. In what ways could having a missing or murdered woman, girl, Two-Spirit, transgender, or gender-diverse person in the family affect a person's likelihood of being incarcerated?
3. In what ways does the penal system put women at risk of becoming missing and/or murdered?
 - » What role do you see intergenerational trauma playing in the connection between MMIWG2S+ and the over-incarceration of Indigenous Women, Girls, Two-Spirit, Transgender, and Gender-Diverse People?
4. In the 2021 study by the American Economic Society, titled "The Effects of Parental and Sibling Incarceration: Evidence from Ohio," the society found that parental incarceration reduces the likeliness that a child will become incarcerated by 4.9% and improves their neighborhood quality.
 - » What do you think of the results of this study?
 - » Do you feel that this might be true for Indigenous communities within Canada?
 - » Why or why not?
5. There is a small, but growing, body of literature on the effects of intergenerational incarceration, most of which is written from a Western perspective. How would Indigenous lived experiences and Knowledge contribute to our understanding of intergenerational incarceration (Prompts: What is unique about Indigenous experiences in the context of intergenerational incarceration? Do socioeconomic factors contribute to Indigenous intergenerational incarceration? How are Indigenous communities effected by intergenerational incarceration?)
6. In what ways do you see connections to systemic violence towards Indigenous Women, Girls, Two-Spirit, Transgender, and Gender-Diverse People and the penal system?



7. Do you feel that the rehabilitation programming within prisons support assimilation or further marginalizes Indigenous Women, Girls, Two-Spirit, Transgender, and Gender-Diverse People?
8. Can you please describe the ways that policing in Canada is implicated in both over-incarceration of Indigenous Women, Girls, Two-Spirit, Transgender, and Gender-Diverse People and the neglect of MMIWG2S+ cases/apathy towards the inquiry into MMIWG2S+?
9. In your experience, how is the violence of the penal system enacted upon Indigenous Women and Girls been exacerbated for Transgender, Two-Spirit, and Gender-Diverse People?
10. In what ways would Indigenous-led healing lodges or programs that support healing programs closer to home differ from the penal system and benefit Indigenous populations?
11. Is there anything else you would like to add?





Native Women's Association of Canada
L'Association des femmes autochtones du Canada

Intergenerational Effects of Incarceration and MMIWG2S+

Final Report

**A Metastasizing Problem: Incarceration and
Intergenerational Effects of the MMIWG2S+ Genocide**

Five Policy Research Papers on Missing and Murdered
Indigenous Women, Girls, and Gender-Diverse People