



May 25, 2022

Via email: [Justin.trudeau@parl.gc.ca](mailto:Justin.trudeau@parl.gc.ca); [Marc.Miller@parl.gc.ca](mailto:Marc.Miller@parl.gc.ca); [marco.mendicino@parl.gc.ca](mailto:marco.mendicino@parl.gc.ca);  
[Anne.Kelly@csc-scc.gc.ca](mailto:Anne.Kelly@csc-scc.gc.ca)

The Right Honourable Justin Trudeau, P.C., M.P.  
Prime Minister of Canada  
Office of the Prime Minister and Privy Council  
80 Wellington Street Ottawa  
Ottawa, ON K1A 0A2

The Honourable Marc Miller, P.C., M.P.  
Minister of Indigenous Services  
10 Wellington Street  
Gatineau, QC K1A 0H4

The Honourable Marco Mendicino, P.C., M.P.  
Minister of Public Safety and Emergency  
Preparedness  
269 Laurier Avenue West  
Ottawa, ON K1A 0P8

Anne Kelly  
Commissioner, Correctional Service Canada  
340 Laurier Avenue West  
Ottawa, ON K1A 0P9

Dear Prime Minister, Ministers and Commissioner:

**Re: CBA Indigenous Decarceration and Self Determination Resolution**

I am writing on behalf of the Canadian Bar Association Criminal Justice Section and its Committee on Imprisonment and Release (CBA Section) to share the CBA's support for Indigenous decarceration and self determination.

The CBA is a national association of 36,000 lawyers, notaries, law teachers and law students with a mandate to protect the rule of law, promote access to justice and equality, and seek improvements to the law and the administration of justice. The CBA Section includes lawyers specializing in the areas of criminal law from all parts of Canada, and a balance of Crown and defence lawyers. The Committee consists of lawyers specializing in prison law and sentencing.

At its recent Annual General meeting, the CBA voted to urge federal, provincial and territorial governments to:

- negotiate an action plan with Indigenous groups within two years to offer well-resourced preventative community-based services; and alternatives to incarceration of Indigenous peoples, with a goal of significantly reducing incarceration rates;
- implement the action plan immediately, and monitor its progress annually, and amend it as necessary;

- shift funding from the Correctional Service of Canada and from provincial and territorial correctional services to Indigenous communities to implement the action plan.

A copy of CBA resolution 22-03-A, *Indigenous Decarceration and Self Determination*, is attached for your ease of reference.

The mass incarceration of Indigenous peoples in Canadian prisons is increasing at an alarming rate and the CBA Section believes this represents a continuation of genocide against them. Indigenous communities are systemically denied funding to offer healing services to their members to prevent involvement in the criminal justice system and to offer alternatives to imprisonment.

The government has stated that advancing reconciliation requires dealing with both systemic racism and the overrepresentation of Indigenous peoples in the criminal justice system. It has committed to helping bring systemic change to address this unacceptable reality.<sup>1</sup>

We ask that government keep the CBA apprised of developments in implementing an action plan with Indigenous groups under Canada's *United Nations Declaration on the Rights of Indigenous Peoples Act* as it relates to shifting authority and funding for alternatives to incarceration of Indigenous people in Canada.

Thank you for taking the time to consider this letter. We would welcome an opportunity to work with your respective organizations to help to develop and implement an appropriate action plan.

Yours truly,

*(original letter signed by Julie Terrien for Tony Paisana and Jen Metcalfe)*

Tony Paisana  
Chair, Criminal Justice Section

Jen Metcalfe  
Committee on Imprisonment and Release

cc. CSC Indigenous Corrections National Headquarters, [restorativejustice@csc-scc.gc.ca](mailto:restorativejustice@csc-scc.gc.ca)

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<sup>1</sup> See *New funding for projects to address overrepresentation of Indigenous peoples in criminal justice system*, News Release: [online](#)

## Call for Action: Indigenous Decarceration and Self-Determination

**WHEREAS** the Truth and Reconciliation Commission of Canada determined that Canada's residential school system was an act of genocide against Indigenous peoples;

**WHEREAS** Indigenous peoples are over-represented in prison, in higher prison security levels, in uses of force by correctional officers, in suicide attempts, in self-harm, in homicides and in solitary confinement, and are less likely to receive conditional release;

**WHEREAS** the mass incarceration of Indigenous peoples in Canadian prisons is increasing at an alarming rate, and represents a continuation of genocide against them;

**WHEREAS** Indigenous communities are systemically denied funding to provide healing services to their members to prevent involvement in the criminal system and to offer alternatives to imprisonment;

**WHEREAS** the UN *Declaration on the Rights of Indigenous Peoples* (UNDRIP) confirms Indigenous peoples' right to self-determination and to maintain distinct institutions, and

## Appel à l'action : limiter l'incarcération et favoriser l'autodétermination des Autochtones

**ATTENDU QUE** la Commission de vérité et réconciliation du Canada a déterminé que le système de pensionnats indiens du Canada constituait un acte de génocide contre les peuples autochtones;

**ATTENDU QUE** les Autochtones sont surreprésentés en prison et dans les quartiers cellulaires de haute sécurité ainsi que dans les cas d'usage de la force par des agents correctionnels, de tentative de suicide, d'automutilation, d'homicide et d'isolement cellulaire, en plus de bénéficier plus rarement d'une libération conditionnelle;

**ATTENDU QUE** l'incarcération à outrance des Autochtones au Canada augmente à un rythme alarmant, et représente une perpétuation du génocide contre eux;

**ATTENDU QUE** les communautés autochtones se font systématiquement refuser le financement nécessaire pour offrir des services de guérison à leurs membres afin de prévenir le recours au système pénal et d'offrir des solutions autres que l'incarcération;

**ATTENDU QUE** la *Déclaration des Nations Unies sur les droits des peuples autochtones* (DNUDPA) confirme le droit des Autochtones à l'autodétermination et à la conservation

Canada's *UNDRIP Act* requires the federal government to ensure that its laws are consistent with UNDRIP;

**BE IT RESOLVED THAT** the Canadian Bar Association urge federal, provincial and territorial governments to:

1. negotiate a distinctions-based action plan with Indigenous groups within two years to provide:
  - a. well-resourced preventative community-based services; and
  - b. alternatives to incarceration of Indigenous peoples,

with a goal of significantly reducing incarceration rates;
2. implement the action plan immediately, and monitor its progress annually, and amend it as necessary; and
3. shift funding from the Correctional Service of Canada and from provincial and territorial correctional services to Indigenous communities to implement the action plan.

**Resolution carried at the Annual Meeting of the Canadian Bar Association held in Ottawa, ON, February 7, 2022.**

d'institutions distinctes, et que la *Loi sur la DNUDPA* exige du gouvernement fédéral qu'il veille à ce que ses lois respectent la DNUDPA;

**QU'IL SOIT RÉSOLU QUE** l'Association du Barreau canadien exhorte les gouvernements fédéral, provinciaux et territoriaux à :

1. négocier un plan d'action fondé sur les distinctions avec les groupes autochtones dans un délai de deux ans afin d'offrir :
  - a. des services préventifs bien pourvus en ressources dans les communautés;
  - b. des solutions autres que l'incarcération,

le tout dans l'objectif de diminuer appréciablement les taux d'incarcération;
2. mettre immédiatement en œuvre un plan d'action, surveiller ses progrès chaque année et y apporter des changements au besoin;
3. canaliser une part du financement du Service correctionnel du Canada et des services correctionnels provinciaux et territoriaux vers les communautés autochtones pour qu'elles mettent en œuvre le plan d'action.

**Résolution adoptée à l'Assemblée annuelle de l'Association du Barreau canadien, à Ottawa (ON), le 7 février 2022.**