



**ONTARIO PROVINCIAL COUNCIL**  
of  
**The Catholic Women's League of Canada**

**ON.18.03**

To Fully Implement Alternative Sentencing to  
Incarceration of Indigenous Offenders

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1 **Whereas,** culturally specific correctional interventions, such as Elder services, Healing Lodges,  
2 Pathways Initiatives and partnerships with community groups, make the Indigenous  
3 offender more likely to successfully complete their supervision and to be granted  
4 parole, and  
5

6 **Whereas,** section 81 of the Corrections and Conditional Release Act states that the Minister of  
7 Public Safety and Emergency Preparedness or a person authorized by the Minister may  
8 enter into an agreement with an Aboriginal\* community for the provision of  
9 correctional services to Aboriginal offenders, and  
10

11 **Whereas,** section 84 of the Corrections and Conditional Release Act states that where an offender  
12 has expressed an interest in being supervised in an Aboriginal community, the  
13 Correctional Service shall, if the offender consents, give the Aboriginal community  
14 adequate notice of the offender's parole review or statutory release date and an  
15 opportunity to propose a plan for the offender's release with supervision and  
16 integration into that community, and, therefore, be it  
17

18 **Resolved,** that the Ontario provincial council of The Catholic Women's League of Canada in 71<sup>st</sup>  
19 annual convention assembled request national council to urge the federal government  
20 to fully implement sections 81 and 84 of the Corrections and Conditional Release Act,  
21 and be it further  
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23 **Resolved,** that this resolution be forwarded to national council of The Catholic Women's League  
24 of Canada for consideration at 98<sup>th</sup> Annual Convention August 2018.  
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31 \* The term Aboriginal was used as it was specifically stated in the sections of the Corrections and  
32 Conditional Release Act. The new recognized term is Indigenous.

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### **1 Brief**

2 The 2015 Report of the Truth and Reconciliation Commission of Canada (TRC) called upon the  
3 Government of Canada to commit to eliminating the overrepresentation of Aboriginal people in  
4 custody over the next decade (Truth and Reconciliation Commission of Canada, 2015). The  
5 government committed to implementing all the TRC’s recommendations.  
6

7 When imposing a sentence, section 718.2(e) of the Criminal Code of Canada requires a court to  
8 consider the following principle: “that all available sanctions, other than imprisonment, that are  
9 reasonable in the circumstances and consistent with the harm done to victims or to the  
10 community should be considered for all offenders, with particular attention to the circumstances  
11 of Aboriginal offenders” (Justice Laws, December 12, 2017).  
12

13 In addition, sections 81 and 84 of the Corrections and Conditional Release Act provide the  
14 opportunity for the Aboriginal community to be involved in the correctional process (Minister of  
15 Justice, June 17, 2016). Under Definitions for sections 80-84, given in section 79, “Aboriginal  
16 community means a first nation, tribal council, band, community, organization or other group  
17 with a predominantly Aboriginal leadership” (Ibid, section 79, p. 42). Correctional Service  
18 Canada (CSC) is working with Indigenous communities to facilitate programs on reserves and in  
19 urban settings as these communities take responsibility for offenders released to them. General  
20 Custody Agreements provide for the transfer of an Indigenous offender to an Indigenous  
21 community in a non-institutional setting with supervision, treatment and programming provided  
22 under 24-hour supervision of community members or the transfer to a spiritual or Healing  
23 Lodge, or other treatment facility in an urban setting (Achnenberg, January 2000). Healing  
24 Lodges are correctional institutions where cultural values, traditions and beliefs including  
25 Indigenous concepts of justice and reconciliation are included. The approach to corrections is  
26 holistic and spiritual including guidance and support from Elders and their communities (CSC,  
27 December 1, 2016). Offenders who have demonstrated a serious commitment to a healing path  
28 may participate in an alternative spirituality-centered Pathways programs that involve intensive  
29 Elder services, including both one-to-one counselling and sharing Indigenous values, traditions  
30 and beliefs (CSC, November 12, 2013). Indigenous communities are also provided with the  
31 opportunity to participate in an offender’s release plan from a penal institution. The release plan  
32 must address the concerns and needs of the community as well as those of the offender  
33 (Achnenberg, January 2000).  
34

35 “Indigenous offenders, who participated in Pathways Initiatives at some point during their  
36 sentences, had higher rates of conditional release” and those released on parole “from Healing  
37 Lodges were more likely to successfully complete their supervision” (Office of the Auditor  
38 General of Canada, 2016). “Indigenous offenders with a section 84 release plan were twice as  
39 likely to be granted parole... [and] successfully complete their supervision” (Ibid). These  
40 alternatives to incarceration should be given the utmost consideration when sentencing.

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### Works Cited

1. Achtenberg, Melanie. “Understanding Restorative Justice Practice within the Aboriginal Context.” *Forum on Corrections Research*, vol. 12, no. 1. Correctional Service Canada, January 2000, [http://www.csc-scc.gc.ca/research/forum/e121/121j\\_e.pdf](http://www.csc-scc.gc.ca/research/forum/e121/121j_e.pdf).
2. Correctional Service Canada. *Correctional Service Canada Healing Lodges*. Amended December 1, 2016, <http://csc-scc.gc.ca/aboriginal/002003-2000-eng.shtml>
3. Correctional Service Canada. “Pathways Concept.” *Establishment and Operation of Pathways Initiatives*. Amended November 12, 2013, <http://www.csc-scc.gc.ca/acts-and-regulations/702-1-g1-eng.shtml>.
4. Justice Laws, Government of Canada. *Criminal Code, R.S.C., 1985. c. C-46*. Amended December 12, 2017, <http://laws.justice.gc.ca/PDF/C-46.pdf>.
5. Minister of Justice, Government of Canada. “Aboriginal Offenders.” *Corrections and Conditional Release Act, S.C. 1992, c. 20*. Amended June 17, 2016, <http://laws-lois.justice.gc.ca/PDF/C-44.6.pdf>.
6. Office of the Auditor General of Canada. *2016 Fall Reports of the Auditor General of Canada: Report 3 –Preparing Indigenous Offenders for Release – Correctional Service Canada*. 2016, [http://www.oag-bvg.gc.ca/internet/English/parl\\_oag\\_201611\\_03\\_e\\_41832.html](http://www.oag-bvg.gc.ca/internet/English/parl_oag_201611_03_e_41832.html).
7. Truth and Reconciliation Commission of Canada, *The Truth and Reconciliation Commission of Canada: Calls to Action*. 2015, no. 30, [http://nctr.ca/assets/reports/Calls\\_to\\_Action\\_English2.pdf](http://nctr.ca/assets/reports/Calls_to_Action_English2.pdf).

## **ON.18.03 To Fully Implement Alternative Sentencing to Incarceration of Indigenous Offenders**

### **Action Plan**

1. Write to the prime minister, minister of Justice, the minister of Public Safety and Emergency Preparedness and your member of parliament urging them:
  - to make more progress on their commitment to the 2015 Report of the Truth and Reconciliation Commission, to eliminate the overrepresentation of Aboriginal people in custody over the next decade;
  - to ensure that judges, lawyers and legal personnel, when sentencing, ask for the provision of Section 718.2(e) of the Criminal Code of Canada which requires a court to consider the following principle: “that all available sanctions, other than imprisonment, that are reasonable in the circumstances and consistent with the harm done to victims or to the community should be considered for all offenders, with particular attention to the circumstances of Aboriginal offenders;”
  - that the Government of Canada respect the right for Aboriginal people to ask that their Aboriginal community be involved in the correctional process.
2. Councils invite an Indigenous person who has come into contact with the correctional system to share his/her story with them.
3. Monitor the federal government's response to the request of this resolution.