

INTRODUCTION FROM THE SPECIAL ISSUE EDITORS

Still Writing and Fighting to Reduce the Footprint and Harm of the Canadian Carceral State

*Sarah Speight, Jarrod Shook,
Justin Piché and Kevin Walby*

With a lot of things going on, contributing to this collection was a priority to me because Harper's government had really made my life a living hell... Many aspects of the [Conservative] government's punishment agenda were unconstitutional, pushing prisoners to make a decision between life and death. ... What I would like to see moving forward is that Mr. Trudeau follow through on his promise to Indigenous people to seek out and do something about the root cause of this problematic factor that is killing my people every day in and outside of prisons... I believe that I will always remain a walking target, because I am a talking target behind these walls. I will not stop! ... I am so tired and afraid that CSC is going to kill me and my death is going to be ruled off as a natural cause from a heart attack or a suicide.

– Josephine Pelletier (2017, p. 36).

INTRODUCTION

Between 2006 and 2015, successive Conservative federal governments under the leadership of Prime Minister Stephen Harper deviated from the Canadian record of a restrained approach to punishment (Webster and Doob, 2015), ushering in an era of 'criminal justice' laws, policies, and practices justified on the grounds of denunciation, deterrence, and incapacitation over alternatives to incarceration (Crichton and Ricciardelli, 2016). This period saw the introduction of additional mandatory minimum sentences, increases to many minimum and maximum penalties, as well as the widening of the scope for 'dangerous offender' designations (Cook and Roesch, 2012). While in office, the Conservatives also passed significant amendments to the *Corrections and Conditional Release Act (CCRA)* and the *Criminal Code*, which resulted in the elimination of accelerated parole review (Doob and Webster, 2016) and the replacement of the 'least restrictive measures' principle guiding the administration of federal

sentences with the ambiguous and permissive principle of ‘necessary and proportionate’ measures (OCI, 2015). Other legal reforms included changes impacting those awaiting their trials, such as updated bail assessment criteria (Fournier, 2011) and the reduction of the additional credit one could accumulate for time served while awaiting the conclusion of their legal ordeals (Mallea, 2011). During this period, the number of prisoners serving federal sentences in custody increased, albeit not dramatically, while those serving their sentences on conditional release decreased (Zinger, 2016). More significantly, conditions of confinement in federal penitentiaries further deteriorated (see Shook *et al.*, 2017).

Following the 2015 federal election, Liberal Prime Minister Justin Trudeau’s promises of ‘sunny ways’ provided hope that the Conservative’s approach, characterized by an intensification in the quantity and quality of punishment was a blip in what has been described by some scholars as Canada’s progressive ‘criminal justice’ record following the Second World War (Cook and Roesch, 2012; Webster and Doob, 2015). In the epitaph opening this introduction, Josephine Pelletier highlighted the unlivable conditions she endured in Canadian federal penitentiaries under the Harper Conservatives. She also called upon the new Liberal government to keep the commitments they made to Indigenous communities and people behind bars included in Prime Minister Justin Trudeau’s mandate letters to the Attorney General and the Minister of Justice (Trudeau, 2015a) and the Minister of Public Safety (Trudeau, 2015b). Josephine Pelletier explained that she felt targeted as a result of her efforts to engage in self-advocacy while incarcerated, and that she feared that her eventual death at the hands of the state would be written off as natural or a suicide, as is often the case in state-involved deaths of Indigenous people (Razack, 2015). Josephine Pelletier was a contributor to the first issue of our dialogue on the Canadian federal penitentiary system, Volume 26(1&2). She wrote her submission while incarcerated at Grand Valley Institution for Women and died in police custody following her release under a long-term supervision order. This issue is dedicated to Josephine Pelletier and is evidence that the previous Liberal Government of Canada’s promise of “real change” has for many, including current and former federal prisoners, translated into little in the way of concrete improvements in their lives. While penal inertia has persisted, some human beings like Josephine Pelletier have lost their lives. Other outcomes were possible and another future remains worth fighting for.

“STUCK, STALLED, OR EVEN REGRESSIVE”? THE NEED FOR DIALOGUE WITH PRISONERS OF THE CANADIAN CARCERAL STATE

In 2015, then newly elected Liberal Prime Minister Justin Trudeau released mandate letters to cabinet ministers outlining the official priorities of their respective offices. Each letter began with the opening line, “We have promised Canadians a government that will bring real change in both what we do and how we do it... I expect Canadians to hold us accountable for delivering these commitments” (Trudeau, 2015a, 2015b). This preoccupation with *delivering real change* runs throughout documents produced by the previous Liberal government, including CSC’s annual plans (CSC, 2018, 2019). However, it has been suggested by Correctional Investigator Ivan Zinger that rather than delivering real change, progress in reducing the harms of human caging has become “stuck, stalled”, and in some cases “even regressive” (OCI, 2018, p. 3).

In the mandate letter to the Attorney General and Minister of Justice, the Minister was tasked with conducting a review of changes to the ‘criminal justice’ system that had occurred during successive Harper governments to evaluate these reforms and “ensure that we are increasing the safety of our communities, getting value for our money, addressing gaps and ensuring that current provisions are aligned with the objectives of the criminal justice system”. One outcome of this review was a report produced through consultations with provincial and territorial stakeholders (Justice Canada, 2018). The report opened with a message from then Justice Minister Jody Wilson-Raybould where she described the purpose of these consultations: “careful and open dialogue is fundamental to this review... The goal of these roundtables was to gather people from different vantage points across the system to discuss their local practices and suggestions” (ibid, p. 3). There is no mention of direct consultation with incarcerated individuals in the report.

At the *Journal of Prisoners on Prisons*, a prisoner written, peer-reviewed, academically-oriented journal, we take the position that those behind bars have a unique vantage point and that their involvement in the planning and implementation of laws, policies, and practices that impact their daily lives is necessary to facilitate careful and open dialogue. The necessity of incorporating the knowledge held by prisoners in the review of the Canadian penal system inspired the journal’s “Dialogue on the Canadian

Penitentiary System and the Need for Change” (Shook *et al.*, 2017), which we have continued (Shook, 2018) and since expanded into an “Ongoing Dialogue on the Canadian Carceral State” (see Benslimane and Moffette, 2019). This expansion broadens the scope of dialogue beyond penitentiaries to include carceral controls which exist in everyday spaces, such as conditional release mechanisms and other carceral institutions including migrant detention centres. Previous installments of the dialogue culminated in a set of reasonable recommendations, which could be categorized as “non-reformist reforms” (Mathiesen, 2015, p. 231). These reforms aim to reduce the harms of human caging without bolstering the existence of the Canadian carceral state. A harm reduction approach to these reforms envisions a long-term goal of a world without prisons. The recommendations articulated by federally incarcerated *JPP* contributors were:

1. Enacting legislative reforms including the restoration of accelerated parole review for first-time federal prisoners convicted of a non-violent criminalized act, as well as reductions in the number of mandatory minimums that presently restrict the ability of judges to consider circumstances related to one’s criminalized acts and alternatives to incarceration at sentencing;
2. Expanding access to community-provided mental health services, with an emphasis on counselling and preventative care, to address psychological needs that existed prior to incarceration (where applicable) and to offset the pains of imprisonment;
3. Expanding access to community-provided health and dental care services with a focus on preventing conditions that become costlier to address once they arise and which place prisoners at unnecessary risk of injury, disease, or death;
4. Improving the health of the incarcerated, reducing tension within penitentiaries, and expanding training and work opportunities for prisoners by eliminating the centralized ‘cook-chill’ food regime, while restoring prison farms and re-opening on-site kitchens in all CSC institutions;
5. Promoting safe reintegration by allowing prisoners to maintain contact with support networks in the community (e.g. families, community volunteers, etc.) while incarcerated and to accrue a

modest amount of funds to re-establish themselves in Canadian society post-release by (a) eliminating additional room and board fees, (b) increasing prisoner pay beyond levels established in the 1980s to fairly compensate them for their work, (c) restoring Old Age Security payments for seniors behind bars, and (d) ending the centralized purchasing catalogue monopoly while reinstating institutional purchasing officers who could assist captives with buying local, less-costly, and higher-quality goods;

6. Bolstering access to community-provided educational and vocational training opportunities that will better position federal prisoners to obtain employment post-release, which will promote their safe reintegration into society;
7. Bolstering training and accountability measures for CSC institutional staff to ensure that they are fulfilling their obligations to respect the human rights of prisoners, while assisting captives with their work towards the completion of their correctional plan objectives prior to their parole eligibility dates to facilitate their timely, safe reintegration, improving public safety outcomes and reducing the costs of incarceration;
8. Expanding gradual release opportunities (e.g. escorted and unescorted temporary absences for work, schooling and vocational training, health and mental health care, family events, religious observance, and other pro-social activities that contribute to the well-being of prisoners), along with ensuring adequate CSC staffing and resources to promote the safe and timely reintegration of the imprisoned;
9. Restricting the ability of Parole Board Canada members to impose release conditions that are not clearly linked to prisoners' charge(s) and often set them up for trivial, technical breaches that return individuals to federal penitentiaries at a considerable cost to taxpayers; and
10. Establishing a new pardon system that supports former prisoners with opportunities to redeem themselves as well as obtain timely, reasonable access to employment, housing, and other necessities on an equal footing with their fellow citizens (*Journal of Prisoners on Prisons*, 2017).

Taken together, it was hoped these reforms could contribute towards “diminishing this country’s reliance on incarceration” through prevention, diversion and decarceration measures, while also “working towards justice that heals wounds instead of creating new ones” (ibid).

As the dialogue continued, other recommendations to reduce the footprint and harm of the Canadian carceral state were tabled. They included:

1. Increasing release opportunities for palliative and terminal incarcerated individuals who face unique challenges navigating the carceral system whilst entering old age (Threinen, 2018);
2. Providing full-time library staff, along with increased access to case law and legal manuals to support prisoners to improve access to ‘justice’ for federally sentenced individuals (Parr, 2018); and
3. Ending the use of criminal inadmissibility that involves the revocation of Canadian Citizenship and subsequent deportation of those convicted of certain criminalized acts (Benslimane and Moffette, 2019).

Contributors to this issue echo many of the recommendations found in *JPP* 26(1&2) and 27(1) – access to post-secondary education, fair wages, healthy food, a reduction in restrictive conditional release mechanisms, improved access to visitation, and the elimination of mandatory minimum sentencing. None of our contributors called for an increased use of incarceration. Rather, they highlighted the inherently harmful nature of imprisonment (Anonymous Prisoner 1, this issue).

Despite this and the proven failure of imprisonment (Mathiesen, 1990), the previous Liberal government facilitated the construction of new carceral spaces without providing adequate supports to prevent entry into the carceral system or expanding restorative justice practices, as the Minister of Justice had been mandated to do by Prime Minister Trudeau (2015a). Examples of this include the allocation of federal infrastructure funding to facilitate the construction of the \$74 million, 112-bed Qikiqtani Correctional ‘Healing Centre’ which will replace the Baffin Correctional Centre (Piché and Benslimane, 2019). Former Minister of Public Safety Ralph Goodale pledged \$138 million to the Canadian Border Services Agency in a stated effort to make immigration detention more secure and humane (CBSA, 2018), which included funds for the construction

of new and bigger immigration detention facilities in Quebec, Ontario, and British Columbia. These are but a few examples illustrating how the previous Liberal government, who criticized the carceral expansion of the Conservative era (Piché, 2015), failed to live up to their promise to *deliver real change* where human caging is concerned.

The front cover for this issue, Peter Collins' (2012) drawing "Aboriginal Strategy", was meant to illuminate the use of imprisonment as a catchall solution to social conflicts and harms during Prime Minister Harper's time in office. This piece remains relevant today as Indigenous peoples and those incarcerated in federal penitentiaries, along with other spaces of confinement in Canada, continue to experience many of the same structural conditions that push them further to the margins. In fact, 30% of Canada's federal prisoners are Indigenous – a record high (OCI, 2020). The words etched into the background of Collins' piece reflect policy failures that have been raised by prisoners throughout our on-going dialogue on the Canadian carceral state, including the mass incarceration of Indigenous and Black people living in Canada (Shook *et al.*, 2017), the criminalization of women and those living with mental health issues (Fayter and Payne, 2017; Pelletier, 2017), migrant detention (Benslimane and Moffette, 2018), and the criminalization of poverty and homelessness (Anonymous Prisoner 1, this issue). Placing "health care" in quotations, Peter Collins reminds us that prisons are fundamentally unhealthy places, which limit the capacity of medical staff to deliver anything that could be considered 'care'. The black and grey tones of this piece reflect the dark places (Piché and Walby, 2019) where those experiencing the pains of imprisonment (Sykes, 1958) continue to be criminalized, caged, and killed on stolen land.

Despite the darkness inherent in carceral settings, there is hope (Sayer, 1994). As individuals held captive by the Canadian carceral state continue to shine a light on sites of confinement (Piché and Walby, 2019), writing and fighting for change, the harms inherent in human caging become visible. Yet, discussion and reflection are not enough, as highlighted in this journal's first issue, which focused on Canadian penitentiaries:

The struggle for justice does not begin and end with a few prisoners advocating reasonable changes in the prison. It is a struggle which transcends the prison and goes to the root of contemporary society, a struggle in which we all must participate... The only reasonable solution

is massive decarceration out of prison and into a caring, just, and humane society” (MacLean, 1988, p. 72).

Contributors to this issue of the dialogue continue to call for a society that displaces the caging of human beings in favour of more community-based, compassionate pathways to addressing social conflicts and harms.

LIBERAL REFORMS AND CURRENT ISSUES FACING PRISONERS PUSHED TO THE MARGINS

Authors featured in past issues of this dialogue have highlighted the challenges experienced by those who enter prison from already-marginalized contexts (Shook *et al.*, 2017). Although incarceration is inherently marginalizing, certain groups become even further *vulnerablized* as a result of the structural conditions that led to their incarceration. Indigenous and Black prisoners (Deschene, 2017), federally sentenced women (Fayter and Payne, 2017), those in need of palliative care (Threinen, 2018), people living with mental health and substance use issues, and those with precarious immigration status (Benslimane and Moffette, 2019) face unique challenges in navigating the Canadian carceral state. In the first installment of this dialogue, contributors expressed hope that the Liberal government would undo many of the Harper-era policies that increased the harms experienced by people behind bars in Canada (Shook *et al.*, 2017). However, it appears that “careful and open dialogue” was not enough, and that the Trudeau Liberals have left contributors to this issue dissatisfied with the lack of meaningful action amid much conversation on delivering real change (Shook, 2018).

In September 2018, the Minister of Public Safety Ralph Goodale released a mandate letter to the newly appointed Commissioner of CSC Anne Kelly. This was the first time that a CSC commissioner had been provided with a publicly released mandate letter (*ibid*). Commissioner Kelly’s mandate highlighted the importance of meeting the needs of Indigenous and Black people living in Canada, LGBTQ2IA people, federally incarcerated women, and young adults. The letter also encouraged her to address the Ministry of Justice’s mandate of reducing the high rate of Indigenous people in custody, as well as provide supports for those among them who come into contact with the penal system by building relationships with Indigenous

community partners and increasing access to Indigenous ‘healing lodges’. The Commissioner was also instructed to reduce the spread of infectious disease, address the needs of those living with mental health issues, ‘modernize’ CSC’s approach to gender identity and expression, and restore prison farms. The section below reviews the (in)action by the Liberal government in addressing the issues faced by prisoners pushed to the margins, necessitating action by the new minority Liberal government elected in October 2019.

Indigenous Prisoners

JPP contributors have long criticized CSC’s failure to provide adequate programming and access to cultural resources to Indigenous people in their custody (e.g. Solomon, 1990; Homer, 1990; Horii, 1994; Ms. Cree, 1994). Prime Minister Trudeau’s 2015 mandate letter to the Minister of Justice called for an increase in supports available to Indigenous people living with mental health issues in federal custody, along with a reduction of the rate of incarceration of Indigenous Canadians through the utilization of “restorative justice processes and other initiatives” (Trudeau, 2015a).

Four years later, Indigenous people continue to be incarcerated far above the rate that they represent in the general population. Indigenous people make up only 5 percent of the Canadian population, while they account for 30 percent of those incarcerated in federal penitentiaries (OCI, 2020). While CSC (2018) reported a significant increase in the discretionary release of Indigenous prisoners (up 13.6% from 2013 to 2018), it is more common for Indigenous people to receive higher classifications than their non-Indigenous counterparts and to be released at their statutory release date, rather than on parole at an earlier stage in their sentence (OCI, 2017). Of those released at their statutory release date, 79% were released directly from a medium- or maximum-security facility, rather than being provided the opportunity to cascade down to a minimum-security institution during the custodial component of their sentence (*ibid*). While rates of approval for day parole have increased for Indigenous prisoners, they continue to remain far below the general population (CSC, 2018).

CSC planning documents state that “providing effective and culturally appropriate correctional and reintegration support for Indigenous [prisoners] has been a CSC corporate priority for more than a decade” (CSC, 2019, p. 4). Despite the recent mandates of both the Ministers of Justice and

Public Safety, the Canadian government has done little in the last decade to move the needle on the rate of incarceration of Indigenous people in Canada or their mistreatment while in custody (OCI, 2017, 2018). A recent press release from the Office of the Correctional Investigator (OCI, 2020) slammed the Government of Canada for the sustained increase in the representation of Indigenous people in CSC facilities, which has surpassed 30%. His office called for immediate federal action on this issue by making “dramatic changes to reduce readmissions and returns to custody, better prepare Indigenous [prisoners] to meet earliest parole eligibility dates and more safely return Indigenous [prisoners] to their home communities” (ibid, p. 1). During incarceration, Indigenous people are more likely than their non-Indigenous counterparts to engage in self-harm (48.3% of all incidents) and be subject to involuntary transfer or use of force (OCI, 2018). In 2017, 25% of all use of force incidents investigated by the OCI involved Indigenous prisoners (OCI, 2018). Additionally, while the use of segregation has declined across the general population (CSC, 2018), this rate has not declined for Indigenous prisoners (OCI, 2018).

In response to the dearth of adequate Indigenous programming, CSC is now evaluating the implementation of Aboriginal Intervention Centres (AIC) (CSC, 2019). This model follows Indigenous prisoners from intake to release, housing those who are “committed to a healing path” at centralized reception centres (CSC, 2019, p. 11). On paper, AICs offer specialized case management teams, contact with elders, Indigenous programming, and focus on “healing plans” (CSC, 2018). Despite what appears to be an increase in available programming, Indigenous prisoners continue to wait lengthy periods of time to access cultural programs (OCI, 2018).

AICs are meant to complement CSC’s already existing Pathways initiatives. The Pathways program is described by CSC as an “Elder-driven intensive healing initiative” that provides individual counselling, access to ceremony and a “traditional healing path” for individuals incarcerated at all security levels (CSC, 2019). Pathways encompasses “transition units” (minimum-security), “ranges” (medium-security), and finally “day program interventions” for those in maximum-security with the stated goal of preparing individuals for transition to medium-security pathways ranges. Programming such as this has been criticized for its production of a homogeneous Indigenous identity, rather than serving the localized needs of prisoners based on their respective home communities (Martel and

Brassard, 2008). As a result of this homogenized production of Indigeneity, prisoners report pressure to conform to a stereotyped identity to satisfy their ‘correctional’ plans and gain access to parole (ibid). Neal Freeland (2017) explained this issue at a Public Safety Committee meeting on the experiences of Indigenous people in the prison system:

So let’s pretend for a moment that programs work and are of real value... Programs need to be created for prisoners, to address prison-related situations. And for Indigenous prisoners, that means making them culturally appropriate. I don’t mean just slapping feathers and medicine wheels throughout the workbooks; I mean actually culturally appropriate in a societal context: Inuit programming for Inuits, Métis for Métis, first nations for first nations and taught by their people, not just by Indigenous program facilitators either, with our medicine people along with those Indigenous facilitators, with our elders, be those elders Métis, Inuit or first nations. There is power in the voice and the person that teaches the way. These programs need to be offered to all Indigenous prisoners from the get-go. Nothing is gained by waiting.

Further, the “Indigenous community partnerships” CSC reports have provided few opportunities for power over ‘criminal justice’ to be transferred to Indigenous communities, serving more as “purchaser-provider relationships” (Martel *et al.*, 2011, p. 252). While CSC boasts the benefits of Elder-Assisted hearings, recently only 12% of Indigenous prisoners had their files prepared for parole hearings when they became eligible to do so, with 83% of Indigenous prisoners postponing their parole hearings (OCI, 2017). Elder-Assisted hearings have also been criticized for their failure to meet the unique needs of prisoners from different cultural backgrounds (Turnbull, 2014).

Prisoners Living with Terminal Illness

In *Carter v Canada* (2015), the Supreme Court of Canada ruled that the *Criminal Code* provisions which prohibited medical assistance in dying infringed upon section 7 *Charter* rights to “life, liberty and security of the person”. In response to this ruling, Prime Minister Trudeau’s (2015a) mandate letter to the Minister of Justice and Attorney General called for a response to *Carter* through legislation outlining procedures for initiating

Medical Assistance in Dying (MAID). Although the legalization of MAID safeguards healthcare providers and family members who would otherwise be subject to criminalization under the *Criminal Code of Canada*, concerns have been raised regarding the initiation of these processes for individuals in federal custody (OCI, 2018). C-14 amended the *Corrections and Conditional Release Act* (CCRA), removing the requirement for a report and investigation in cases where a federally sentenced individual dies as a result of MAID. This change has been criticized by the Correctional Investigator who argued that exemption from formal investigation “does not rise to the same level of transparency and scrutiny that these issues attract in the rest of Canadian society and law” (OCI, 2018, p. 14). Although health professionals administering MAID are required to report to the appropriate provincial healthcare bodies, these reports examine the administration of the death itself and not the broader context in which it occurred.

In November 2017, CSC released their internal guidelines governing MAID, which emphasized compassionate, patient-centered care utilizing “humanitarian principles” (OCI, 2018, p. 8). Despite the best efforts of incarcerated individuals providing volunteer palliative care behind bars (Hedquist, 2019), it is evident that end of life care in prison settings is far from ‘humanitarian’ (Huckleberry, 2006; Barton, 2006). The first Canadian case of medical assistance in death involving a federally sentenced person is illustrative of this: the individual spent over a year in palliative care and applied for section 121 release (parole by exemption). The application was rejected a year later and the individual was subsequently approved for MAID. On the day of their death, two armed officers escorted the individual from the prison to the hospital where pre-approved family members joined them until the individual’s death. Waiting to be transferred to the hospital to die or receiving MAID within prison is an inhumane practice, which should be substituted with conditional release mechanisms. This would allow the decision to undertake medically assisted death to be made in the community by individuals on parole, rather than from behind bars with limited alternatives. MAID should be facilitated through section 121 releases and other conditional release mechanisms wherever possible as recommended by the OCI (2018).

Although providing terminally ill prisoners with the option to utilize medically assisted death may appear to be a meaningful change, incarcerated people – like anyone else – deserve compassion and care that cannot be provided within the confines of a prison (Barton, 2006). Increasing access

to section 121 releases is of urgent need as parole by exemption is incredibly underused within the confines of CSC. CSC's 2015-16 *Deaths in Custody Report* notes that of the prisoners who died "natural deaths" between 2009-2016, 13% applied for section 121, but died prior to their hearings, 14% did not meet the criteria, 6% were denied following application and 1% were approved, but died before MAID arrangements could be made (CSC, 2017). Further efforts must be made to increase access to conditional release pathways for those who require them due to terminal illness to prevent further deaths in custody. However, it is important to echo observations made by Gerald Niles (2018, p. 6), who seeks more radical change from where he writes in a Florida prison: "In a context where compassionate release on medical grounds is denied even when available on paper, I do not have any solutions to offer for the problem faced by older prisoners short of the abolition of prison, which would at least cure a lot of ills associated with the violence of incarceration".

People Who Use Drugs

The mandate letter to the Minister of Justice tasked her with collaborating with the ministers of health and public safety to introduce the legalization and regulation of cannabis. C-45 received royal assent in June 2018 and legalized the possession of cannabis for personal use. It was not until March 2019 that the Liberal government introduced C-93, *An Act to provide no-cost, expedited record suspensions for simple possession of cannabis*. C-93 removes the costs associated with applications for record suspension on simple cannabis possession charges, and expedites the typically lengthy process (Nicol, 2019). In contrast to record expungement, record suspensions under C-93 do not eliminate a criminal record, but rather separate it from other convictions so that it will not appear in a Canadian Police Information Check (CPIC) search. Record suspension only applies to federally held records, and provincial and municipal agencies may still hold access to records. The NDP criticized the Liberal approach of record suspension and argued that expungement was the most appropriate measure in responding to the legalization of cannabis possession. During the second reading of C-93 Murray Rankin of the NDP explained:

...[record suspension] puts the data somewhere else, where it can be used prejudicially later and potentially shared with other departments, thereby

having a negative effect. Expungement means those records disappear for all purposes and for all time. A record suspension or pardon indicates the government is forgiving or excusing individuals for criminal behavior, and that is all; expungement acknowledges it was wrong to criminalize it in the first place... (Parliament of Canada, 2019).

At the time of this reading, Rankin was preparing C-415, legislation which aimed to facilitate record expungement for simple marijuana possession charges. C-415 was not allowed to proceed to second reading.

A central flaw in the respective record suspension and expungement legislation was that neither facilitated automatic record suspension/expungement (McAleese, 2019). Individuals who require a record suspension for cannabis possession convictions must take it upon themselves to apply rather than having their records automatically separated in the CPIC database. As of September 2019, this measure was under-utilized, with only 118 out of the hundreds of thousands of people across Canada living with cannabis-possession related criminal records having obtained such a record suspension (Harris, 2019). Although expedited, no cost record suspensions for the possession of marijuana may seem like a step in the right direction, it reflects a missed opportunity to automatically expunge records, which would provide improved access to employment and educational opportunities for those who are living with criminal records related to the possession of cannabis. The current approach, which requires applying to the Parole Board of Canada (PBC) for record suspension, is an exorbitant waste of PBC resources that could easily be facilitated utilizing automatic record suspension. This change has little impact on those currently behind bars for cannabis related charges, as one's incarceration, parole, statutory release and conditional sentence must have been completed at the time of application. For those applying for record suspension for charges unrelated to marijuana possession, the fee to apply for record suspension will increase from the already-prohibitive cost of \$631 to \$644.88. Public Safety Canada explained that this increase is mandatory and in accordance with the Service Fees Act, which requires government application fees to increase along with the Consumer Price Index (Public Safety, 2019).

While the previous Liberal government focussed their attention on legalizing marijuana, far too little was done to address the opioid criminalization and overdose crisis, which resulted in the deaths of over

4,460 Canadians in 2018 alone (Public Health InfoBase, 2019). For instance, it took efforts by Liberal Member of Parliament Ron McKinnon to introduce C-224, a private member's bill that became law under the title *Good Samaritan Drug Overdose Act*. Under this act, those found at the scene of an overdose cannot be criminally charged for personal possession of a substance and are exempt from breach of conditions of bail, probation, and parole for simple possession of a controlled substance. The act includes anyone seeking emergency support during an overdose, including the person experiencing the overdose, as well as all those at the scene when emergency services arrive. The stated intent of this bill was to increase the willingness of those present at the scene of an overdose to call for emergency services to revive the effected individual (Gangdev, 2017). However, the act does not provide legal protection for those with outstanding warrants, those involved the production and trafficking of controlled substances, or any other criminalized acts. Further, police still attend overdose calls, leading to reservations among those who would otherwise call for an emergency that they will be subject to criminal charges or arrest, even while protected by the *Good Samaritan Act*. These reservations are warranted, as there continue to be reports of individuals being charged with drug possession at overdose scenes (von Scheel, 2018). The Liberal government is to blame for this in part, as they did not issue funding or directives to support police services in responding to the law (ibid). Advocates have called for a ban on police attendance at overdose calls to allow those present at an overdose scene to obtain emergency services without fear of criminalization (Gangdev, 2017).

During the past legislative session, the previous Liberal government also introduced C-37 *An Act to amend the Controlled Drugs and Substances Act and to make related amendments to other Acts*. This streamlined the process for organizations applying for federal exemptions under the *Controlled Drugs and Substances Act* to operate supervised consumption sites. Supervised consumption sites (SCS) are healthcare environments where individuals are permitted to consume self-provided drugs that are otherwise criminalized in an environment where healthcare staff can respond to prevent potential overdose deaths (McNeil and Small, 2014). These sites are also important points of entry to primary and palliative care for individuals who otherwise face barriers to healthcare access in the community (ibid). Following this change, CSC opened their first supervised consumption site at Drumheller Institution, using a model, which has yet to be tested elsewhere in the

world (HIV/AIDS Legal Network, 2019). The SCS operates from 7:00am to 7:00pm, and prisoners interested in utilizing the service must first meet with CSC healthcare staff (Browne, 2019). This prompted a response from the Canadian HIV/AIDS Legal Network, who explained that although they support supervised consumption sites in the community, they hold serious reservations regarding the success of this model in penitentiaries. They highlighted that the success of supervised consumption sites depends on trust between staff and those utilizing the service (HIV/AIDS Legal Network, 2019), something that is very difficult to obtain in an environment where CSC frontline personnel continue to perform urinalysis and contraband searches as per standard practice (CSC, 2019).

Advocates have stressed that the SCS model must not replace access to the six Prison Needle Exchange Programs (PNEP) available in Canadian penitentiaries, which provide prisoners with anonymous access to sanitary injection equipment (van der Meulen *et al.*, 2016). The PNEP program is imperfect, as noted in a letter to then Minister Goodale and CSC Commissioner Kelly by the HIV/AIDS Legal Network (2019), who raised concerns about the lack of consultation of people who use drugs during its implementation. In the face of such issues, they called for a transparent and accountable evaluation of the program to ensure the necessary confidentiality and trust required to administer such programs in detention settings (*ibid*).

Another concern regarding the health and well-being of prisoners is access to safer tattooing in prisons. The Harper era saw the elimination of the Safer Tattooing Pilot (STP), a program aimed at reducing the risk of the spread of blood-borne infections among incarcerated people. The STP provided sanitized tattoo equipment to certain prisoners with the understanding that those behind bars would engage in tattooing whether or not they had the equipment to do so safely. This program reduced the risk of transmission of HIV and Hepatitis C among those engaging in tattooing within prisons (PHAC, 2006). Despite public protest across the country and the tireless advocacy of harm reduction organizations like PASAN (van der Meulen *et al.*, 2018), the Liberal government did not reinstate safer tattooing in Canadian penitentiaries. Given that CSC's Commissioner has been mandated to reduce the spread of infectious disease within penitentiaries, the failure to re-implement safer tattooing programs in penitentiaries is a missed opportunity for her to work toward meeting her mandate through immediate action to reduce the spread of blood borne illnesses.

In the realm of harm reduction, a significant failure of the first government led by Justin Trudeau was their inaction on decriminalizing drug possession for personal use. The decriminalization of illicit substances would not only decrease the population of sites of confinement across provincial and federal jurisdictions, but would also reduce the risk of drug overdose and preventable blood borne infections among people who use drugs (Jesseman and Payer, 2018) behind and beyond the walls.

People with Precarious Immigration Status

As the Canadian government continues to allocate infrastructure funding to the construction of immigration detention facilities in Laval, Quebec, Toronto, Ontario and Vancouver, British Columbia, concerns have been raised regarding the treatment of those who are being detained due to their precarious immigration status. Past contributors to the dialogue, Souheil Benslimane and David Moffette (2019), have highlighted the “double punishment” of criminal inadmissibility that results in deportation on the grounds of “criminality” or “serious criminality” following incarceration.

During the 2015 federal election campaign, the Liberals denounced the so-called *Strengthening Canadian Citizenship Act*, a Conservative measure passed in 2014 that included additional barriers to gaining Canadian citizenship and left people with dual citizenship more vulnerable to revocation. The law extended the age range requiring Canadian knowledge tests, increased the costs of applying for citizenship, and imposed significant delays in the efficiency of citizenship applications. The law also made dual citizens subject to revocation of citizenship on the grounds of criminal charges in another country, citizenship fraud, convictions of terrorism or treason, or demonstrated intent to reside in another nation. This legislation also removed the right to a judicial revocation hearing and transferred the responsibility for revocation decisions to officers of Citizenship and Immigration Canada. The Liberals committed to repealing C-24 during the 2015 federal election campaign.

However, once in office, the Liberal government introduced C-6, which failed to respond in full to the anti-democratic features of the Conservative law they denounced while on the campaign trail in 2015. C-6 did not address the component of the law which permitted revocation on the grounds of criminal charges received abroad, which fails to account for corruption and uneven criminalization in other nations. Further, C-6 neglects to repeal the

aspects of the *Strengthening Canadian Citizenship Act*, which permitted the revocation of individuals who have been accused of citizenship fraud without right to a judicial hearing. The bill also failed to reduce exorbitant citizenship processing fees, which currently sit at 530 dollars.

Criminalized and Incarcerated Women

Following *Creating Choices* (TFFSW, 1990) and the Royal Commission concerning the April 1994 incidents at P4W (Arbour, 1996), several recommendations were made regarding the treatment of criminalized and federally incarcerated women. *Creating Choices*, in particular, provided an opportunity to reduce the use of imprisonment and the harms experienced by women behind bars by eliminating maximum-security units for women and presuming minimum-security classification at the time of admission, removing perimeter fencing from new, cottage-style regional women's facilities, and abolishing segregation for women. These recommendations have gone unaddressed and it seems as if CSC is decades later operating "business as usual" in their regional women's facilities that replaced the barbaric P4W (OCI, 2018).

While the number of men held in CSC custody had declined over the last decade, the number of federally sentenced women sharply increased by 30% from 2008 to 2018 (OCI, 2018). Under Prime Minister Trudeau's watch, women continue to die in federal custody, one of whom was Terry Baker who died in segregation while living with complex mental health issues (ibid). Following her death, the CSC Board of Investigation report found that Baker's "mental health needs were a poor fit for a correctional environment" (ibid, p. 88). Her death reflects a failure to respond to the recommendations from the Inquest into the Death of Ashley Smith (Bromwich and Kilty, 2017), which recommended that federally sentenced women in mental health crises be transferred to a hospital environment.

Contributors to Volume 26(1&2) of the *JPP* noted that CSC still utilizes segregation to respond to women who exhibit self-harming behaviour, and that this only exacerbates the mental health issues of those who are placed there (e.g. Fayter and Payne, 2017). These are just but a few of the many ways that journal contributors have documented how CSC has failed to live up to the vision laid out in *Creating Choices* (Kilty, 2011; Shook *et al.*, 2017, pp. 10-54).

Prisoners Presumed to be Legally Innocent Under the Law

In response to the rulings of *R v. Cody* and *R v. Jordan*, which addressed unreasonable delays in the Canadian court system, the Minister of Justice was mandated to improve efficiencies and reduce court delays across the ‘criminal justice’ system. C-75 amended the Criminal Code and reclassified over 110 charges that could only be prosecuted by indictment and were punishable by under 10 years imprisonment to hybrid charges, while standardizing the majority of summary convictions as punishable by two years-less a day. The legislation limits the use of preliminary inquiries to cases where the accused faces a charge, which is punishable by an imprisonment term of over 14 years. The rationale behind restricting preliminary hearing to this potential term of imprisonment is unclear (Canadian Bar Association, 2018). C-75 also instructed that any bail decision must give primary consideration to releasing the accused at the “earliest reasonable opportunity” under the “least onerous conditions”, while also requiring courts to give special consideration for bail for Indigenous people and others from marginalized groups.

In response to public outrage during the trial into the death of Colten Boushie, C-75 included amendments to reform jury selection, abolishing pre-emptory challenges, which allowed counsel to exclude a potential juror without cause. During this trial, it was alleged that potential jurors who ‘appeared Indigenous’ were excused from the proceedings, resulting in the acquittal of the accused (Barnett *et al.*, 2019). Following the *R v. Boudreault* ruling where the current victim surcharge regime was struck down as unconstitutional, C-75 also introduced amendments to C-28, which added the requirement that it was at the court’s discretion to offer exemptions to victim surcharge. Although this legislation offers welcome reforms to the bail regime, particularly the least onerous conditions measure and special considerations for Indigenous people and other marginalized groups – it fails to include reforms that *JPP* contributors have called for throughout this dialogue, including the abolition of mandatory minimum sentences (Bassio, this issue) and an increase in access to conditional sentence orders (Canadian Bar Association, 2018), which would both diminish the use of imprisonment and the damage long-term sentences cause to prisoners that undermine community safety.

An End to Solitary Confinement in Federal Penitentiaries?

Following key superior court decisions in Ontario and British Columbia, which highlighted that several practices related to the use of administrative

segregation are unconstitutional (*Corporation of the Canadian Civil Liberties Association v. Her Majesty the Queen; British Columbia Civil Liberties Association v. Canada (Attorney General)*), C-83 was introduced with the intent of ending administrative and disciplinary segregation through the introduction of “structured intervention units”. The legislation also contained several other amendments which: 1) established a network of patient advocates; 2) set out factors that must be considered when making decisions regarding Indigenous people in custody; 3) facilitated the use of body scanners in an effort to prevent contraband; 4) permitted victims access to audio recordings of some Parole Board of Canada hearings; and 5) mandated that CSC and PBC staff utilize least restrictive measures when making decisions regarding prisoners. Prior to C-83, two types of segregation existed: 1) disciplinary segregation, which was intended to punish an individual following an incident alleged to have transgressed institutional rules; and 2) administrative segregation, which was used when a prisoner (a) was deemed to pose a threat to institutional security or safety, (b) could interrupt an investigation which would lead to a criminal or disciplinary charge, and (c) was deemed to be ‘at risk’ when not segregated.

While C-83 was heralded by the previous Liberal government as an “end to the practice of segregation in Canada” (PSC, 2019), critics have argued that rather than ending the practice, the law allows the practice of solitary confinement to continue under a new name (Pate, 2019). The bill failed to pose adequate restrictions regarding the type or number of cells utilized as structured intervention units, which runs the risks of facilitating an increase in the practice of segregation rather than a decrease. Further, this bill provides prison administrators with more discretion regarding the use of ‘structured intervention’, with a lack of adequate oversight (Pate, 2019). Although components of the bill are improvements, including the requirements of access to human contact, visitation from healthcare staff and programming, and requiring reintegration plans for prisoners placed in structured intervention units – this legislation fails to meet the ministerial mandate to address the recommendations resulting from the death of Ashley Smith in any meaningful way. While attempts were made by some Senators to amend the legislation to protect it from challenge in the courts, these were rejected (Vilgotti, 2019).

For the federal penitentiary system to make steps toward actually ending the practice of segregation, several changes must be made. These include: 1)

closing loopholes which deny human contact and which remove programming; 2) putting in place external oversight mechanisms to monitor the discretion given to institutional staff with the power to make binding recommendations on institutional placements; 3) establishing time caps for consecutive and annual length of time spent in SIUs; and 4) placing a limit on the number of prisoners who can be placed in SIUs; and 5) enforcing a gradual reduction in this number until this form of isolation ends (Pate, 2019).

THE PLACE OF THE CARCERAL IN THE 2019 FEDERAL ELECTION

In contrast to past recent elections where the justice system was at the forefront of party platforms, election candidates had little to say about the (in)justice system in the months leading up to the 2019 federal election. This was unsurprising on the part of the Liberals, who after a term of unmet promises on the justice file released a platform that was “about as unambitious as possible” (Spratt, 2019). Broadly speaking, this election avoided issues of ‘criminal justice’ reform, while other facets of the Canadian carceral state, such as immigration detention, did not gain significant traction.

Liberal Promises to Move “*Forward*”

Following the stakeholder consultation for the “Justice System Review”, then Liberal Minister of Justice and now Independent Member of Parliament Jody Wilson-Raybould cautioned that “systemic change cannot be completed in one mandate”, promising that following the 2019 federal election the Liberal approach would shift “from one of review to one of transformation of the criminal justice system” (Justice Canada, 2018, pp. 3-4). Setting aside that previous Conservative governments managed to achieve systemic, albeit detrimental change to the Canadian (in)justice system beginning in their first term in office (Shook, 2018), the 2019 Liberal justice platform demonstrated minimal interest in “transformation”. Rather than moving the penal system review “*forward*”, as the Liberal platform title implied, it appears that this file has stalled completely. The Liberal election platform acknowledged the findings of the Justice System Review, recognizing that racialized communities are represented in jails and prisons at a substantially higher rate than they represent in the overall population (LPC, 2019, p. 47). In response to this already well-established finding, Liberals committed

to “mandatory training on unconscious bias and cultural competency for all judges in Canada”. Such a measure is unlikely to provide concrete commitment to action on the part of judges in terms of their consideration of the circumstances faced by racialized people who come into contact with the penal system. Further, this fails to address the experiences of those who are already embedded in the (in)justice system past the point of their contact with judges, but that continue to come into contact with penal system entities known to act with bias toward racialized people, including CSC and PBC. The 2019 platform also included the establishment of a “criminal case review commission” to provide opportunities for sentenced individuals to challenge prior convictions.

While Liberals also promised increased diversion programs for youth and partnerships with the provinces and territories to establish “community justice centres”, neither of these were accompanied with concrete plans of action, and it is unclear why diversion programs are being proposed for youth alone. Although the Liberal platform claimed to be developing resources to divert people away from the justice system, they are investing in employment and infrastructure which does the opposite. Such promises include the hiring of law enforcement through the expansion of First Nations Policing, \$50 million per year for five years for gang task force funding, the hiring of more RCMP officers, as well as additional crown attorneys and judges. When taking stock of these measures, along with the aforementioned building of new prisons and migrant detention centres across the country, it appears that the new Liberal government has committed to expanding, rather than ‘transforming’ the current injustice system.

Conservative Commitments

While the Liberal platform promised few concrete changes in the lives of those kept behind bars, the Conservative platform promised to both increase the length of sentences and limit the possibility of early release. In a section entitled, “Make Prison Time Meaningful”, the Conservatives promised to tie parole eligibility to job skills training, ending the use of statutory release and replacing it with “earned parole” (CPC, p. 52), which was a recycled policy position advanced, yet not implemented, under successive governments led by Prime Minister Stephen Harper (see Jackson and Stewart, 2009). The Conservatives also promised to put an end to unescorted day passes for all federally sentenced people, claiming

that this would “keep our communities safe” (CPC, 2019, p. 53). At the same time, they committed to ending the prison needle exchange program (PNEP), a public health intervention supported by decades of evidence of reducing the drug-related harms experienced by prisoners without posing safety risks to others living and working within the institution (van der Meulen *et al.*, 2016). The Conservatives also committed to implementing more mandatory minimum sentences, including a five-year mandatory minimum for being in known possession of a smuggled firearm and a mandatory minimum of the same length for committing or ordering “violent gang crime” (ibid, p. 64). The Conservative plan aimed to put a reverse onus on bail for people accused of being involved in gang activity and to revoke parole for people who associate with known gang members while on conditional release. They also committed to remove the opportunity for parole for those that have been convicted of murder in cases where they will not disclose the location of the body of the deceased. Finally, in a section entitled, “Make life sentences mean life behind bars” (ibid, p. 66), Conservatives promised to introduce legislation that would allow people to be put behind bars for the rest of their natural lives for murder convictions under certain circumstances. It is clear that the retributive practices of the Harper-era were alive and well among the Conservatives while on the 2019 federal election trail.

New Democratic Party Plans

The NDP (2019), like the Liberals, had very little to say about reforms to the Canadian carceral state. However, they did table a few measures to reduce its size, including measures to reduce the use of mandatory minimum sentences and increase use of restorative justice practices over retributive approaches to responding to social conflicts and harms. They also promised an end to carding (street checks) – a discriminatory practice which subjects racialized Canadians to the harms of police contact (NDP, 2019; Weng and Inucha, 2017). The NDP also committed to expunging criminal records for charges related to personal possession of cannabis and to increasing federal funding for legal aid programs.

Green Party Platform

The Green Party has committed to eliminating unjust mandatory minimum sentences entirely and decriminalizing drug possession for personal use.

Although their platform promised to “reinvest in prisoner rehabilitation” (GPC, 2019, p. 79), no examples were provided of what kind of programming or services would be offered to those behind bars. Rather than expunging criminal records for cannabis possession as the NDP has committed to, the Greens promised to reform the record suspensions for simple possession to “maximize fairness and accessibility” (ibid, p. 79), and to pass legislation to eliminate solitary confinement. Finally, the Green Party committed to banning the use of LGBTQ2IA+ conversion therapy using the *Criminal Code of Canada*.

Bloc Quebecois

The Bloc did not include any justice system related reforms in their 2019 election platform.

MOVING ‘FORWARD’

As implied above, the 2019 federal election resulted in a Liberal minority government, with the Liberals winning 157 seats. The Conservatives won 121 seats and the Bloc came in at a distant third with 32. This was followed by the NDP with 24 seats and the Greens with three. Jody Wilson-Raybould, who held the position of Attorney General and Minister of Justice until she was removed from the position by Prime Minister Trudeau, was re-elected in her Vancouver-Granville riding as the only Independent. On 13 December 2019, the newly re-elected Liberal government released mandate letters to cabinet ministers outlining their respective priorities for the next term. Each letter began with a commitment to “invest in families and communities” (Trudeau, 2019a, 2019b). However, while the last round of Liberal mandates promised “real change” (see Trudeau, 2015a, 2015b), letters outlining the second Liberal mandate open with more tempered commitments to achieve “real *results*” (Trudeau, 2019a, 2019b). Trudeau referred to each mandate letter as only a “starting point”. This is hopefully the case as the mandate letters touching the penal system (see Trudeau, 2019a, 2019b) are nowhere near ambitious enough to reduce the footprint and harm of the Canadian carceral state to the degree that is necessary to truly “invest in families and communities” (ibid).

PUBLIC SAFETY MINISTER'S MANDATE

C.O. Memorial Grant Program

While the mandate letter to the newly appointed Minister of Public Safety Bill Blair made no commitments to reducing the harms experienced by those living in Canadian penitentiaries, he was tasked with expanding the Memorial Grant Program for First Responders to include “correctional staff” (Trudeau, 2019a) by the end of 2020. The Memorial Grant Program is operated by Public Safety Canada (2018) and provides financial compensation to families of first responders who have succumb to fatal injuries, occupational illness, or a psychological impairment resulting in suicide related to their professional duties. The addition of “correctional staff” to this program recognizes them “first responders” and their families would become eligible for up to \$300,000 in the event of their work-related deaths (ibid). This change is underway in a context where prisoners continue to die in custody (CSC, 2015) and where the families of prisoners who have lost their lives have gone without answers, institutional accountability, or compensation. With this in mind, the compensation for families of “correctional staff” over those of prisoners at a much higher risk for death feels insufficient.

Irregular Migration

The mandate letter to Minister Blair reiterated many of the Liberal 2019 election commitments discussed above, including the expansion of diversion programs for youth, a dedicated funding stream for municipalities to “fight gang related violence”, and the hiring of 100 additional RCMP officers to be employed at Canadian embassies abroad (Trudeau, 2019a). As our dialogue expands to encompass the broader Canadian carceral state rather than penitentiaries alone, issues facing criminalized and detained migrants are of increased interest to our dialogue (see Benslimane and Moffette, 2019). As Minister Blair oversees the Canada Border Services Agency (CBSA), his mandate letter also includes direction to implement the *Border Enforcement Strategy*, which was allocated \$1.18 billion over the next five years to “ensure we have appropriate border security approaches but also improve the processing speed for immigration Canada” (CBC, 2019). In lumping together increased processing speeds, support for asylum claims, and border enforcement this message couches the violence inherent in

“border enforcement” and the criminalization of migration in promises to increase accessibility and efficiency for *some* migrants. The mandate letter also included the implementation of an independent oversight body for the CBSA, a welcome change.

JUSTICE MINISTER’S MANDATE

The 2019 mandate letter to the Minister of Justice began with the vague direction to “develop proposals for reform to Canada’s system of judicial governance and discipline” (Trudeau, 2019b). Following the completion of the “Justice System Review” (Justice, 2018) one could have perhaps expected that the justice mandate for the Liberal’s second consecutive term would be little less exploratory (see Shook, 2018). Unfortunately, there is no mention of the Justice System Review or its findings in the 2019 justice mandate letter. Perhaps the Liberals felt it better to be vague after their failure to meet their commitments from their 2015 mandate (Spratt, 2019). Other changes ordered to the justice system by the Liberal government include a ban on the practice of conversion therapy, further *Criminal Code* responses to elder abuse, increased training for judges on sexual assault law and further legal protections for those who are subject to hate speech. The section that follows takes to task some key changes in the 2019 justice mandate letter.

Drug Treatment Court

During the present mandate, Justice Canada is to implement drug treatment court as a default option for first-time drug-related charges that do not involve violence to “help drug users get quick access to treatment and prevent more serious crimes”. Unfortunately, evaluation of drug court programs over the last two decades has shown that they are failing to meet these objectives (see Rempel and Green, 2009; Ohear, 2000; Drug Policy Alliance, 2011). The use of drug treatment court grew in tandem with the drug war, and its failed attempts to mix public health responses to drug use with criminalization and punishment has drawn attention away from more systemic changes that could reduce the use of incarceration and improve health outcomes for people who use drugs. In a context where relapse is penalized with jail time, the Drug Policy Alliance (2011, p. 2) explains that “[those] who stand the best chance of succeeding in drug treatment court are those without a drug problem”. In fact, individuals who are unable to successfully complete this

restrictive program may actually spend more time in jail than if they had opted for sentencing initially – as the opportunity to plead to a lesser charge is often lost in the drug treatment court process (Gottfredson *et al.*, 2002).

While drug treatment court has failed to contribute to a statistically significant decrease in re-arrests (Roman, 2010), these courts could ultimately increase the use of incarceration for drug-related charges as a result of “net widening” where the expansion of the program occurs in tandem with drug-related arrests (Hoffman, 2000). Although the use of drug courts may reduce pre-trial detention, the practice fails to address the key factors behind the rate and cost of criminalization, operating as an “adjunct”, rather than an “alternative” to incarceration (Drug Policy Alliance, 2011, p. 13). This is due in part to the refusal of drug court programs to adopt an approach to substance use which is in alignment with public health approaches, including harm reduction (*ibid*). If the Liberal government is genuine in their commitment to “invest in families and communities” they will divest from drug court programs and implement responses to substance use backed by public health evidence including decriminalizing drug possession, facilitating access to a safe supply of substances of a known potency, and increasing the availability and accessibility of opioid substitution programs and naloxone (Jessemen and Payer, 2018). However, we are not optimistic that this shift will occur in the near future – despite the fact that people continue to overdose and die on both sides of the walls.

Progress on Reconciliation with Indigenous Peoples

Importantly, the 2019 mandate letter to the Minister of Justice instructed David Lametti to contribute “to building the National Action Plan on Missing and Murdered Indigenous Women and Girls and continuing progress on the Truth and Reconciliation Commission’s *Calls for Action*”. (Trudeau, 2019b). The introduction to this issue opened with the words of Josephine Pelletier:

What I would like to see moving *forward* is that Mr. Trudeau follow through on his promise to Indigenous people to seek out and do something about the root cause of this problematic factor that is killing my people every-day in and outside of prisons. We are not supported or believed in by this discriminating judicial system and the Government of Canada more broadly (Pelletier, 2017, p. 35).

Considering Josephine Pelletier's demand that the Trudeau government make good on its commitments to Indigenous people, and the recent mandate of the Minister of Justice to address the TRC *Calls for Action* we reiterate the following recommendations relating to the injustice system made by the TRC.

30. Commit to eliminating the overrepresentation of Aboriginal people in custody over the next decade, and to issue detailed annual reports that monitor and evaluate progress in doing so.
31. Provide sufficient and stable funding to implement and evaluate community sanctions that will provide realistic alternatives to imprisonment for Aboriginal [people] and respond to the underlying causes of [criminalization].
32. Amend the Criminal Code to allow trial judges, upon giving reasons, to depart from mandatory minimum sentences and restrictions on the use of conditional sentences.
36. Provide culturally relevant services to prisoners on issues such as substance use, family and domestic violence, and overcoming the experience of having been sexually abused.
38. Commit to eliminating the overrepresentation of Aboriginal youth in custody over the next decade (Truth and Reconciliation Commission, 2015, pp. 4-5).

Many of these TRC recommendations, notably reduced representation of Indigenous people in custody (Pelletier, 2017), increased use of alternatives to incarceration, and alternatives to mandatory minimum sentences (see Bassio, this issue), as well as the provision of culturally-relevant programming (Sayer, 1989) have been made by *JPP* contributors past and present who continue to call for the Trudeau government to “invest in families and communities” through the utilization of community-based responses to social conflicts and harms, rather than caging people.

A LIBERAL MINORITY

While the previous majority government allowed the Liberals to move legislation along without worrying about it being blocked by the opposition, a minority Liberal government will be forced to work with other parties

to move legislation along. This means that the Bloc and NDP will play an important role in influencing what the new Liberal government is able to accomplish. As Canada again sits at a punishment crossroads, legislation passed impacting the injustice and immigration systems will largely be dependent on cooperation between parties. In this context, we continue to echo the recommendations of our contributors who call for the abolition of mandatory minimum sentences, divestment from prisons paired with investment in community care, an end to life sentences and improved access to early parole, as well as other reforms to reduce the size and damage caused by carceral institutions in this country. It is our hope that the Liberal Government can cooperate with the NDP and Bloc respectively to reduce the use and pains of imprisonment to the degree possible while sites of human caging continue to exist. The injustice platform proposed by the Conservatives is terrifying to say the least and would further entrench the life-taking conditions of the Harper-era that Josephine Pelletier aptly described as “a living hell” (Pelletier, 2017, p. 36).

THIS ISSUE

These are the expressed concerns of sincere people living in Canadian prisons. Accepting the fact that we are prisoners does not alter our desire to live and interact in a society which reflects social mores of equality and justice based on a humanitarian model.

– Ron Lauzon (1988), Collins Bay Penitentiary

Contributors to this issue express dissatisfaction with the so-called sunny ways of the previous Liberal government. This issue is organized into two sections: “Dispatches from Federally Sentenced Prisoners” and “Le Rapport d’Archambault / The Archambault Report”. While the former examines issues faced by prisoners located in different regions of the federal penitentiary system, the latter highlights issues faced by those incarcerated at Archambault Institution, a minimum- and medium-security facility in Saint-Anne-Des-Plaines, Quebec. The institution was named after Justice Joseph Archambault, who chaired the 1938 *Royal Commission on Penal Reform in Canada*, referred to as the “Archambault Report” (CSC, 2012). The Archambault Report was considered a key step toward

penal reform in Canada, shifting the dialogue concerning Canada's penal approach from one of retribution to a system of restrained approaches to punishment, including through the expansion of 'rehabilitation' measures that gained more credence in the Canadian context after the Second World War (Webster and Doob, 2006). Our reference to this report is timely, as the Canadian government again has the opportunity to shift gears away from retributive practices of the Harper-era that carried into the Trudeau-era to impact a transformative shift, this time one that prioritizes community care over the use of punishment in response to social harms.

Many contributors to this volume raised issues that have been prisoner-grievances since the original Archambault Report (1938). Such issues include insufficient healthcare services (Whistleblower, this issue), inadequate compensation for labour, and a lack of available post-secondary and vocational training opportunities (Ghislain, this issue; Hagan, this issue; Bakolias, this issue; Lussier, this issue; Drennan, this issue). Contributors continue to call for the federal government to address pay cuts, increasing prisoner pay from levels established in the 1990s, and for the abolition of the room-and-board charge that further limits prisoners' ability to accumulate modest savings for their release (Levesque, this issue; Germa, this issue; Hagan, this issue, Moody, this issue; Bakolias, this issue). Contributors also demand a reduction to the high cost associated with purchasing items (Moody, this issue).

Authors in this collection continue to call for the end to life sentences and other mandatory minimum sentences (Bassio, this issue; Armeni, this issue). While some call for increased access to conditional release mechanisms and placement in halfway houses (Levesque, this issue; Convict 777, this issue), others highlight their experiences of constraint on conditional release, arguing for a reduction in the powers given to parole officers to return individuals to prison as a result of technical breaches of parole, rather than criminalized acts (Beauchamp, this issue; Drennan, this issue). Increased institutional accountability mechanisms that extend beyond the OCI's limited capacity to provide meaningful interventions into the injustices that federal prisoners experience has also been recommended (Whistleblower, this issue). The cook-chill food system continues to be cited as an issue, with contributors calling for access to affordable, healthy food (Whistleblower, this issue; Moody, this issue; Beauchamp, this issue; Lussier, this issue). Several submissions highlighted issues with the visitation system (Ghislain, this issue; Lussier, this

issue; Hagan, this issue), including the fact that booking visits often requires a high degree of patience on the part of visitors as phones often go unanswered during the hours designated to book visitation, which poses barriers as prospective visitors often have to call multiple times to reach staff in visits and correspondence (Ghislain, this issue; Hagan, this issue). During the visitation process, callers explained that CSC staff often made inappropriate comments to their partners, particularly in cases where wives were being screened prior to Private Family Visits (Lussier, this issue).

Several contributors explained that although they came to prison with the impression that they would be provided the opportunity to improve their lives, they quickly learned that this was not the case (Whistleblower, this issue; Moody, this issue). Rather than operating as a site of personal change, contributors highlighted that their experience of incarceration was one of punishment, where they had limited access to education or employment opportunities. As Anonymous Whistleblower (this issue) puts it in this issue, “CSC’s slogan ‘Changing lives, protecting Canadians’ is wrong. CSC doesn’t change lives; they make prisoners’ lives even more dysfunctional and unstable – not helping at all, but making society even more unsafe. Once prisoners are released, they are severely damaged by the entire CSC experience”.

Amid the darkness inherent in sites of confinement, Emily O’Brien (this issue) highlights the resiliency of incarcerated people, providing guidance on building self-esteem based on her own experiences behind bars. In the two years since the first installment of our dialogue on the Canadian carceral state, we have heard a great deal from prisoners regarding the steps which must be taken to reduce pains of imprisonment, while working toward the abolition of prisons and other sites of confinement. We call on the incoming federal government to heed their calls to reduce the use and pains of imprisonment our authors are all too familiar with and to finally “halt the disastrous trend toward building more fortresses of fear... in the 21st century” (Mayhew, 1988).

WHAT IS TO BE DONE?

Before her death in custody in the midst of the Task Force on Federally Sentenced Women, Sandy Sayer (1994[1989], p. 52, original emphasis) expressed her discontent, noting:

They may not see it... but in 10 years from now when another Task Force is on the prowl and they go through the statistics, analyzing the changes made (if any) and how they've worked, will they feel satisfied? A better question: Are *we* satisfied? How do *we* feel? I get restless and begin to feel melancholy inside because I believed and still do that there is always hope.

Three decades later, contributors to this issue express unnervingly similar dissatisfaction with the continuous slew of OCI reports, task forces, Royal Commissions, strategic planning exercises, and case studies reinforcing the prison as a failure in terms of its stated objectives (also see Mathiesen, 1990). As recommendations are issued *ad nauseum*, human beings continue to suffer and die while in federal government custody. Our contributors are *not* satisfied with the gross inaction on the part of the previous Canadian government amid much discussion on delivering change. If the new Liberal government in office really hopes to “invest in families and communities”, they should spend less time writing reports and undertake genuine efforts to improve the structural conditions that make individuals vulnerable to incarceration, while engaging in rapid decarceration and implementing a moratorium on the construction of sites of confinement. Put differently, to address the injustices occurring throughout Canadian federal penitentiaries and immigration detention centres, the new government must engage in a little less conversation, and a lot more action (Shook, 2018). As Sayer (1994, p. 52) closed her final submission to the *JPP*: “Action talks, bullshit walks!”

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