

Meeting Survivors' Needs: Gender-Based Violence
Against Inuit Women and the Criminal Justice Response

Phase II Report

Report in Brief

Pauktuutit Inuit Women of Canada

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THE REPORT IN BRIEF

Gender-based violence is a serious global problem that produces considerable negative consequences. The rates of physical and sexual assaults against women in Inuit Nunangat are especially troubling.

As citizens of Canada, every Inuk woman and girl has the right to live free from the threat and reality of gender-based violence. The Canadian criminal justice system is expected to “promote public safety and respect for the law, and deal with crime in a just, fair, efficient, and compassionate manner.”¹ Legal interventions in gender-based violence should therefore serve a multitude of purposes, including protecting women, preventing violence, holding perpetrators accountable, and providing victims with meaningful redress. An effective criminal justice system response is one that realizes victims’ needs.

Yet, the inordinate levels of gender-based violence against Inuit women suggest these objectives are not being met in Inuit Nunangat. What, then, are the challenges and barriers encountered in the criminal justice response to gender-based violence against Inuit women? How can the criminal justice system be made more responsive to meeting the needs of Inuit women who experience gender-based violence?

I. Situating Gender-Based Violence in Its Colonial Context

As the National Inquiry into Missing and Murdered Indigenous Women and Girls has emphasized, gendered and racialized violence against Indigenous women and girls is genocide rooted in systemic factors woven into the fabric of Canadian society. Addressing the criminal justice response to gender-based violence in Nunavut, Inuvialuit, and Nunavik² requires attention to these systemic factors. Doing so involves acknowledging ongoing impacts of colonialism on the lives of Inuit in Canada.

In just a few decades (1950s to 1970s), Inuit underwent a profound transformation in their lives and livelihoods, a transformation that was orchestrated by colonial forces outside of their control. Their nomadic, land-based economy and the cooperative ethos on which it is based, along with the interdependent relations between Inuit men and women, were disrupted. Inuit were moved to permanent settlements, where they lived in overcrowded and inadequate “matchbox” houses. Their children were seized and taken to residential schools where they could be taught *qallunaat* culture in preparation for their assimilation into the colonial social order. Overcrowded living conditions and poor diet were a recipe for infectious diseases like tuberculosis and influenza.

Traditionally, the form of justice practiced in Inuit culture was holistic, relational, and restorative in nature. While geared toward the interests of the collective, justice was also tailored to meet the

¹ Department of Justice Canada. 2018. *What We Heard: Transforming Canada’s Criminal Justice System*. Ottawa: Minister of Justice and Attorney General of Canada, p. 4.

² Nunatsiavut, the fourth Inuit Region, is not considered in this report. An application for a research license was submitted to the Nunatsiavut Government Research Advisory Committee. However, given that the COVID-19 pandemic was ongoing at the time, staff in the Department of Health and Social Development were focused on the key priority areas of community wellness, consistent programming delivery, and pandemic response, and therefore were not in a position to devote their time to advising on the application.

needs of the individual causing problems. Significantly, reports from elders suggest that gender-based violence was not a prevalent issue in Inuit society prior to colonial contact.

Inuit methods of conflict resolution were undermined with the arrival of the Canadian criminal justice system. The RCMP played a key role in ushering colonialism into the North, relocating families to the settlements, ensuring Inuit children attended school, and enforcing colonial laws, including the slaughtering of sled dogs, which cut Inuit ties to the land and their traditional source of livelihood. Circuit Courts provided a way of maintaining Canadian sovereignty in the Arctic, imposing an adversarial system based on a finding of guilt, punishment, and incarceration.

In more recent times, social and economic issues — poor living conditions, food insecurity, and the shift in gender roles of Inuit men and women — are some of the more obvious manifestations of the colonial encounter with *qallunaat*. The intergenerational trauma colonialism generates is also a key factor. This lived experience of trauma manifests in high rates of alcohol and drug abuse, a suicide crisis — and the pervasiveness of gender-based violence against Inuit women.

II. The Criminal Justice System in Nunavut, Inuvialuit, and Nunavik

The Canadian criminal justice system has been tasked with responding to the inordinate rates of crime and violence in Inuit Nunangat. While much of the operation of the criminal justice system in the North is a replication of what transpires in southern Canada, gestures have been made towards attending to the unique circumstances and needs of Inuit, particularly in the form of Inuit Court Workers (CWs), Justices of the Peace (JPs), Crown Witness Coordinators (CWCs), and Community Justice Committees (CJCs). Those initiatives, however, have been subject to a host of problems and challenges.

High staff turnover, lack of integration of police officers into the communities, slow response times, and language differences affect the quality of police services being provided. Circuit or Itinerant Courts are confronted with the challenge of reaching isolated communities and overcoming language and cultural barriers while completing an overflowing court docket in a compressed schedule. Problems with recruitment and retention of court personnel compromise the courts ability to offer culturally informed support and services. JPs, CWs, and CJCs are under-trained, under-resourced, and under-utilized. Justice is often served “from a distance” as legal aid lawyers, CWs, and Victims Services agents provide support via telephone rather than in-person. As well, the costs of justice delivery are much higher in the North and there is a serious shortage of community resources and programming, leading some writers to conclude residents of Inuit Nunangat do not receive the same level of justice services compared to the rest of the country and that Indigenous peoples encounter systemic discrimination from the Canadian criminal justice system. While efforts have been made to introduce *Inuit Qaujimaqatunqangit* into criminal justice processes and practices, concerns have been raised about the fundamental incompatibility between the Canadian criminal justice system and Indigenous conceptions of justice.³

³ Zebedee Nungat. 1993. “Fundamental Values, Norms and Concepts of Justice – Inuit of Nunavik.” *Aboriginal Peoples and the Justice System: Report of the national roundtable on Aboriginal justice issues*. Ottawa: Royal Commission on Aboriginal Peoples.

These problems and challenges become more pronounced when the issue of gender-based violence is brought to the fore. Several of the criminal justice initiatives — such as Gladue Reports and Wellness Courts — have been focused on addressing the circumstances of offenders as opposed to victims of crime. CJsCs, while promising to integrate Inuit customary practices into criminal justice decision-making, do not typically consider gender-based violence offences. Several jurisdictions have passed specific legislation, instituted specialized domestic violence courts, and established Victims Services to address gender-based violence. However, access to the specialized courts is restricted for Inuit women, Emergency Protection Orders and Community Intervention Orders are under-utilized and difficult to implement in small communities, and women living in remote communities face the challenge of accessing Victims Services when they need them. The lack of community-based resources and trauma-informed practices within the criminal justice system has also been cited as a problem, as has the climate of mistrust that prevails, inhibiting Inuit women from reporting experiences of gender-based violence.

III. Learning from the Women

Thirty-eight Inuit women bravely shared their experiences of gender-based violence. Those experiences often started in childhood and continued into their adulthood, creating layer upon layer of trauma. Their trauma was starkly evident in their voices as they spoke about what happened to them, and its impact on their lives and identities.

The criminal justice system has a responsibility to meet Inuit women’s needs by offering protection and affirming the harms that have been caused by gender-based violence. Nevertheless, many of the women did not turn to the criminal justice system for help because they were afraid: afraid that they would be blamed and shamed for their victimization; afraid of threats from their abusers if they did tell; afraid of losing their children to the child welfare system; and afraid of not having their experiences validated by the police and the courts.

While some of the women who did turn to the criminal justice system for help were satisfied with the response, many others were quite critical. In too many cases, the system’s response seemed woefully inadequate. Police were often slow to respond or failed to validate the women’s experiences of victimization. Protection Orders did little to keep women safe. And police intervention sometimes led to the women being arrested and charged. Testifying in a courtroom full of other community members was a “scary” experience, and the court outcomes left women believing there was no justice. The system failed to keep the women safe — and in one case failed to prevent a woman’s death at the hands of her abusive partner. These experiences have generated a lack of faith in the criminal justice system.

IV. Hearing from Front-Line Workers

All the thirty-five front-line workers interviewed — police officers, judges, Crown attorneys, defense lawyers, Crown Witness Coordinators, Victim Services workers, Community Justice Outreach Workers, and social service providers — recognized violence against Inuit women as a pervasive problem in the North. They understood gender-based violence to be the result of a “melting pot of so many problems” (housing, economic insecurity, alcohol use, trauma) and connected those problems to their colonial roots. While cases of physical and sexual assault made

up the bulk of their work, many workers believed the criminal justice system was failing to meet the needs of victims of gender-based violence.

The failure of the system is not a matter of a lack of individual will or commitment on the part of criminal justice actors. Rather, the problems are systemic, pertaining to built-in features of the criminal justice system, such as the foundational rules on which the system rests (innocent until proven guilty, proof beyond a reasonable doubt, and the right of an accused person to a full answer and defense to the charges against them) that marginalize victims of gender-based violence and limit the ability of the criminal justice system to meet victims' needs.

Front-line workers were aware Inuit women are often reluctant to report gender-based violence because of lack of trust in the police. That lack of trust has a systemic basis, originating from the history of colonial policing in the regions, the frequent turnover of police officers, the small size of detachments, and the inexperience of new recruits. While police are charged with enforcing No Contact Orders (NCOs) designed to protect women from gender-based violence, those orders are viewed as "just pieces of paper" regularly breached. They may also not align with a victim's pressing needs for financial, childcare, food security, housing, and other support from her partner. Significantly, NCOs do not align with the Inuit tenet of apology and can undermine the conflict resolution and solution-focused efforts of Inuit families.

Workers understood, as well, that the itinerant or circuit court system is poorly equipped to meet the needs of Inuit women. Overloaded court dockets, postponements and delays, challenges in maintaining the continuity of a Crown's file, lack of witness preparation to testify in court, language barriers, the inevitability of re-traumatization when victims testify in court, and reliance on incarceration to deter perpetrators contributed to the failure of the criminal justice system in meeting women's needs.

V. Finding Pathways Forward

Recognition of the systemic limits of the criminal justice system in responding to gender-based violence, in combination with calls to decolonize structures and institutions, provide the basis for fashioning responses to gender-based violence that are:

- endorsed by Inuit and informed by Inuit ways of knowing and conflict resolution;
- holistic in nature and attentive to the multiple issues that generate and perpetuate gender-based violence; and
- place women's needs at the centre of change-making efforts.

Inuit women's needs are multi-faceted. As such, pathways forward will necessarily involve change-making on several fronts, not just within but outside of the criminal justice system.

Front-line workers offered recommendations for mitigating barriers encountered in meeting women's needs within the criminal justice system:

- practicing trauma-informed care;
- ensuring files are managed in a way that victims are well-informed of the process;
- more direct outreach to women;

- better coordination of services; and
- more timely interventions to respond to women's needs.

However, significant changes are required to attend to root causes of gender-based violence, to reinvigorate Inuit methods of conflict resolution and problem-solving, and enable Inuit to heal from the trauma that colonialism generates. Realizing these changes requires de-centering the criminal justice system as the primary site for responding to gender-based violence and directing efforts and resources to change-making strategies in support of Inuit community development and capacity building.

Alternative justice strategies adopted in other jurisdictions (Indigenous Sentencing Courts, Restorative Justice, Justice Reinvestment, and Healing Circles) offer promising pathways forward. Each one holds unique benefits in terms of re-envisioning what justice might look like:

- a more victim-centered justice that is attentive to the social context and conditions in which gender-based violence occurs;
- acknowledges the role and importance of community in addressing and repairing harms; and
- promotes the healing of victims, perpetrators, and their communities.

The most germane paths forward *must* be determined by Inuit regions and communities in which they are to be implemented, and with meaningful input from the Inuit women being harmed by gender-based violence. The Inuit women interviewed for this project were clear about what they needed to heal from the trauma of gender-based violence and move forward in their lives: someone to listen to them; someone they could trust; and someone who would be available to them over an extended period as they undertook their healing journey.