Speaking notes before the Senate

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Thank you very much, Senator Munson. Thank you, Sarah, for your comments as well. Thank you to the committee for inviting us to be here today. It's such an auspicious day, since it's International Women's Day. It is very timely.

I will be submitting a written brief which will support a lot of the points that I bring up today. I had to prepare speaking notes, but I'm quite delighted to be speaking about this subject. It's quite serious, and I really appreciate that the committee is studying this issue.

Victimization and criminalization, the reality of women with disabilities in prisons. Good morning. Happy International Women's Day to everyone here and watching. I'd like to begin by acknowledging that we are gathered on the territory of the Algonquin people, and that we are in a time of truth and reconciliation with the First Peoples of Canada at this time. By so doing, perhaps we begin by also acknowledging the specific problem of the over-representation of indigenous people, including women in the correctional systems, another example of what we would characterize as systemic oppression.

In terms of the information I wanted to share with the committee today, it really is very focused. In preparing for today, some of the research I had was reinforced by more research as I looked. I understand this is a study you'll be undertaking for some time so I appreciate we will have time to submit more research.

In talking about an over-representation, which we just mentioned around the context of indigenous women, studies have been done in Canada, U.S. and Australia that document clearly that upwards of 40 per cent or more of all women in prisons are women with disabilities. Who are those women? What kind of disabilities are we talking about? A range of disabilities, of course, but there are some women in particular we should be thinking about in the context of why this over-representation and where this goes from a systemic perspective.

Again, one of the studies I based this on is a study done in Canada by a woman by the name of Dr. Angela Colantonio. She undertook a study of women in prisons in Ontario. That study confirmed that almost 40 per cent of women in prisons in Ontario had two things in common: first, they had a traumatic brain injury; and second, they had a history of childhood sexual abuse. I think that's quite striking that nearly half of the prison population had those two things in common in the female prison population particularly.

In terms of the other women we're talking about, they are women with learning disabilities or mild intellectual disabilities. Again, in terms of data that is from Canada, specifically from a study done in Alberta, the representation of women with intellectual disabilities and learning disabilities is three to six times higher in prison than in the general population. Think about what that means in terms of the criminalization of women with disabilities.

Again, women with mental health problems and mental health diagnoses, often in the other two cohorts I mentioned, brain injured women and women with mild intellectual disabilities, the manifestation of a mental health disability often comes because there may or may not be a diagnosis of a brain injury or learning disability. Again we're talking about women who are labelled, but not labelled correctly with a disability. Rather they are labelled for their attitude, their problems and for the things that are undiagnosed but are actually manifestations of their disability.

I also want to point to the fact that we have women in other institutions who are ending up in prisons due to lack of appropriate housing when it comes to women with disabilities. One of the examples that I would cite is a young woman with a brain injury who committed suicide last year because she was being housed in a senior's residence. She had been forced into that housing because there was no other appropriate supported housing for her in the community. We do not have adequate housing or supports for these women in the community, which is why they end up in institutions and sometimes incarcerated in prisons.

Another example I'll bring forward is a case a few years ago I found quite disturbing. A woman in Nova Scotia was in an institution there because the small group home she had been in was closed due to budget cuts. She was moved into an institution where she had a problem with one of the people in the institution, and instead of the problem being understood to be one that was linked to her disability and the lack of disability supports, she was charged with assault.

So, again, I come back to this idea that what we are doing with women with disabilities is we are criminalizing them rather than supporting them. We are setting them up to be victims or to be part of the prison system.

Coming back to Dr. Angela Colantonio, Dr. Colantonio did a study of the homeless population of Toronto. We find that upward of 50 per cent of women who are homeless in Toronto had one thing in common as well, which was a pre-existing brain injury before becoming homeless. What I'm trying to ask the committee to think about and consider is not just women in prisons but the women who are on that path because they are not being supported, because they don't have housing and because of the fact that there are no programs and supports in place for them to live in community with dignity, with the opportunity to have a job and to move forward in their lives.

I strongly recommend the committee look to, and I will certainly share information from, Dr. Jo-Anne Wemmers. She's a well-known criminologist who has looked closely at the phenomenon of criminalization and victimization and the links between those two.

Another study that I will bring to the attention of the committee and that I will share, again, in my written brief is actually linked to the Supreme Court decision around sex work in this country. A couple of years ago, a study was done of sex workers in British Columbia. It was a qualitative study of some 3,500 sex workers in British Columbia. This isn't data the researchers really focused on, but it's something that DAWN Canada saw and I think really makes a strong point as well: 35 per cent of those sex workers identified as having a long-term disability before they became sex workers. So more than one third of sex workers in this study are women with disabilities. They are not necessarily wearing that label. Nobody is really supporting them in that context, but that's who they are.

I repeat, there are some clear patterns there.

The thing that I wanted to do, and it's a little outside of perhaps what we might think, but there's a decision DAWN Canada had at the Supreme Court that was linked to an incident of violence against a woman with an intellectual disability who was being sexually assaulted. I bring forward the DAI decision because the fundamental issue in the DAI decision was that this young woman was not believed. She was not believed by the Crown, by the judge or by the defence. The approach they took in the provincial decision was to try and undermine the fact that she was not able to tell the difference between the truth and a lie.

I bring that back not around the specifics here but to make the point that the reality is that the justice system does not support women with disabilities, does not believe them and does not understand the specific needs that women with disabilities would require, regardless of whichever side of the justice table they may find themselves.

On segregation, I was going to say I had the honour to be associated with Dr. Renu Mandhane when she was a researcher at the University of Toronto and did a report that will be shared with the committee, either by myself or someone else. It's called "Cruel, Inhuman and Degrading?'' and it's an important look at the reality. We have well- documented evidence for the conditions and situations for women with mental health problems in prison.

Of course, this report focuses specifically on the Ashley Smith case. I am sure you're going to hear about Ashley Smith from lots of people. I think it's really clear that we need to make the point that this is a young woman of exactly the profile I described: someone who was criminalized instead of supported. As we know, Ashley's crime was throwing an apple at a postal worker. From there, we know how badly we failed her, how badly the correctional system failed her, and how ultimately her death was caused by segregation and by what were completely unacceptable conditions for her in the context of her being in prison.

I wanted to say that we need to start to connect the dots between violence against women and girls with disabilities and their overrepresentation in prison. One of the common threads — and I mentioned this earlier — is childhood sexual abuse, physical abuse or neglect. Coming back to the reality that there's this connection between the overrepresentation of women in prisons in a particular context, it's that we are not going to the root causes and the societal issues that bring these women to this place.

Another piece of data that ties into the larger picture I'm trying to portray around who these women are is that the rates of traumatic brain injury among women is something that is not yet well documented but the evidence is beginning to build. I shared some information about traumatic brain injury and women in prisons, and I'll share another study: Dr. Angela Colantonio and other researchers in Canada have begun to look closely at the rates of traumatic brain injury for women in shelters and transition houses. It's between 35 and 80 per cent. So between one third and three quarters of women who are going through transition houses and shelters have a traumatic brain injury. This isn't surprising given what we're talking about, which is women who have experienced violence and, in many cases, repeated violence.

What's particularly important to understand is that the research — and again this research is something the committee will have time to study more closely — points to the important differences between men and women in terms of how brain injury affects them. It also speaks to the larger issue that we're talking about here, which is that women are becoming disabled through violence in our society at alarming rates, and that this overrepresentation in prisons is one of the manifestations of violence against women in our society.

I would take this one step further and ask the committee also to consider the rates of disability in the indigenous population, which are higher than they are in the non-indigenous population. We have anecdotal and not-fulsome data because the data hasn't been properly collected, but the rate of disability among indigenous women is at least 35 per cent. That means at least one third of all indigenous women are likely to be living with a disability of some type.

Further to that, the committee may want to consider making recommendations to the missing and murdered women's inquiry in this regard insofar as they are looking at systemic issues. I do not believe the inquiry has yet even opened up a discussion about the systemic issue of disability and its impacts in terms of the larger picture for missing and murdered women.

In terms of coming to the work of two organizations that I believe need to be highlighted in this regard, I'll mention the Canadian Association for the Elizabeth Fry Society and the work of DAWN Canada. There is also the Native Women's Association in Canada in terms of their work and focus on the huge overrepresentation of indigenous women, including indigenous women with disabilities in prisons.

It's hard to know where to start in terms of acknowledging CAEFS. Senator Pate is here with us today. So honoured to be with you today, senator, especially given it's International Women's Day and the subject of this study. The Elizabeth Fry Society has been saving lives for many years, including the lives of women with disabilities in prisons, through the advocacy and work they continue to do.

I would have some recommendations, because I assume that is something that you do want to hear from me about. I certainly think this study needs to continue, and I hope I will be called back at a later date when we have more of the evidence, and we can look more deeply at what all the implications of all the research is.

DAWN Canada has a four-pillar approach to the way we do our work. If we were to look at that four-pillar approach, our recommendations would be to undertake a thorough literature review. Thankfully, there's the beginning of a significant body of research. The next step, of course, is to speak to women in prisons themselves. Such an important part of how you get to the root issues and how you get to root solutions is by speaking with these women, by understanding better what their lived experiences are, and how they've affected them and brought them to this place in their lives. It would be important also to include and provide peer support and programs to support their healing and their reintegration, and ensure that they have the appropriate supports when they leave the prison system — not the kind of supports that brought them to prison, but the kind they should have as they exit.

It would be to educate incarcerated women about their rights and ensure that there are appropriate, real, accessible avenues for complaint by these women.

We must educate prison staff about different types of disabilities and how they affect or impact behaviour, and ensure that what happened to Ashley Smith never happens again.

And we must ensure that there is an appropriate mechanism in place for any complaints by prisoners and that an independent body reviews these complaints.

Obviously, that policy reform is urgently needed in the justice system, including in our country's position on prison reforms. I think it's long overdue for Canada to begin to really look at alternative forms; the prison system has clearly not been a good response.

Women with disabilities experience the highest rates of poverty, violence, employment and incarceration in this country. One in five women in Canada lives with a disability, yet there is only one organization, DAWN Canada, and a tiny handful of peer support groups across the country. And so until I sat here with you today, there's been no leadership on this issue, so again I thank you and appreciate the leadership you have shown.

I leave you with the thought that my blog today, for International Women's Day, was focused on 10 years from now. What I'm asking this committee to do, what I'm asking the Government of Canada to do and what I'm asking the Department of Justice to do is to take a long view on this. That will ensure that what we look at are real solutions over the long term and that we do not make this another political issue or let anyone make this a political issue, but rather understand that it's a long-overdue step in the right direction to begin looking at this and to re-examine alternative forms of justice and courts, especially given the data and statistics I shared with you today.

Thank you, and I am looking forward to talking with all of you. Merci.