



**National Associations Active in Criminal Justice**  
**Associations nationales intéressées à la justice criminelle**

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Jim Pankiw (Saskatoon – Humboldt, Ind.)  
House of Commons  
Ottawa, Ontario  
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March 19, 2004

**Regarding your question to the government on March 10<sup>th</sup>, 2004 as recorded in Hansard:**

*“Mr. Speaker, government statistics reveal that Indians make up a disproportionate number of prison inmates because they commit a disproportionate amount of crime. In Saskatoon their crime rate is more than 10 times that of non-Indians.*

*To make matters worse, the Criminal Code orders judges to give lenient sentences to Indian criminals. Just like Chrétien's regime, the government is also refusing to scrap the racist two-tier sentencing scheme that gives Indian criminals a get out of jail card. Why?”*

Mr. Pankiw:

Members of The National Associations Active in Criminal Justice feel your question in Parliament above does disservice to your constituents, the people of Canada and to citizens of Canada of Aboriginal heritage. Your question served to perpetuate the simplistic analysis, myths and stereotypes that the only reason Aboriginal people are over-represented in prison is because they commit proportionately more crime. Your question ignores the historically documented discriminatory treatment of Aboriginal people, including the Marshall Inquiry, the Cawsey Report, the Manitoba Justice Inquiry, the Royal Commission on Aboriginal Peoples, the very recent report of the Canadian Human Rights Commission, as well as the many United Nations reports that chastise Canada for our disgraceful history of discrimination against First Nations peoples.

Your question portrays Aboriginal peoples as committing a disproportionate amount crime and suggests that the numbers of “Indian” inmates in Canadian penal institutions supports this characterization. Your suggestion that the Canadian government supports a “racist two-tier sentencing scheme that gives Indian criminals a get out of jail card” distorts the truth and advances racial prejudice.

Studies show that most people admit to past criminal activity – be it for tax evasion, misuse of public funds, lying while running for office, or spreading false or malicious information. It is also well recognized that many alternatives to criminal prosecution and imprisonment exist for those who have privilege and power. The current Stonechild inquiry in your own riding is investigating the widely held concern that there is indeed a two-tier racially based criminal justice system, but one that is biased against Aboriginal peoples.

Your remarks blame a few prisoners while simultaneously ignoring entirely the social conditions that give rise to crime. The pattern of cultural dislocation has been repeated around the world with Aboriginal cultures who have had their homeland taken and their culture and populations devastated by conquest and usurpation of resources. Recognition is growing globally that it is necessary for dominant cultures to understand the destructive impacts of their own development and to abandon self centered approaches to future social and economic development.

As a country that aspires to be a leader in human rights, Canada needs to address its own marginalization of Aboriginal peoples. One small but important step towards this was the introduction of Section 718.2(e) of the Criminal Code of Canada. This section was enacted in 1996 as part of a comprehensive review of sentencing policy in Canada. Section 718.2(e) directs a sentencing judge to consider "all available sanctions other than imprisonment that are reasonable in the circumstances for all offenders, with particular attention to the circumstances of aboriginal offenders." It is clear in this choice of language that the section is not restricted to Aboriginal people. The phrase, "with particular attention to the circumstances of aboriginal offenders", merely directs judges to look not only at the circumstances of the individual before the court, but, in the case of an Aboriginal person, directs the judge to also ensure that they take into account the circumstances of Aboriginal people as a group.

Unfortunately, Section 718.2(e) has failed to reduce the over-representation of Aboriginal peoples in prison. In fact, the percentage of Aboriginal men and especially Aboriginal women is increasing. Aboriginal women are now 30% of the federal women’s prison population.

Thankfully, most Canadians recognize that this reality is directly linked to the devastating impact of Canada's failure to alleviate the hurtful social, health and economic conditions that they face today. They reject the racial explanation that you have advanced.

All Canadians, and Aboriginal people in particular, deserve an apology from you for your statements.

Yours truly,

Association des Services de Réhabilitation Social du Québec  
Canadian Association for Community Living  
Canadian Association of Elizabeth Fry Societies,  
Canadian Association of Sexual Assault Centres,  
The John Howard Society of Canada  
Canadian Training Institute  
Native Counseling Services of Alberta  
St. Leonard's Society of Canada  
Salvation Army  
Seventh Step Society of Canada  
Canadian Families and Corrections Network  
Canadian Psychological Association

*On behalf of members,*

Jim Mahaffy  
President, NAACJ

c.c.

Her Excellency the Right Honourable Adrienne Clarkson  
The Right Honourable Paul Martin, M.P.  
The Hon. Peter Milliken, M.P.  
The Right Hon. Joe Clark, M.P.  
Hon. Grant Hill, M.P.  
Jack Layton  
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