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Commentary

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Undertreatment, Overtreatment, and Coercion into Treatment: Identifying and Documenting Anti-Indigenous Racism in Health Care in Canada

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In order to approach an understanding of the nature and extent of anti-Indigenous racism in health care in Canada, we need to accept that Indigenous people have been and continue to be overtreated, undertreated, and coercively treated in Canadian health systems. Moreover, we need to understand that all three inequitable treatments happen at the same time and in the same systems. As others have argued in the context of under- and over-policing, discrimination and inequity in the health care system results in diverse trends and outcomes that cannot be easily or singularly classified and addressed. Two recent reports on racism in the health care system have been produced by Yvonne Boyer and Judith Bartlett, and by the Brian Sinclair Working Group; each report examines very different cases and circumstances, yet both point to a pressing need to address serious problems in the health care system when it comes to the treatment of Indigenous people.

The first report, *Tubal Ligation in the Saskatoon Health Region: The Lived Experience of Aboriginal Women*, is an external review by Dr. Yvonne Boyer and Dr. Judith Bartlett ordered by the Saskatoon Regional Health Authority and submitted in July 2017. This review was written in response to several media reports covering stories of Aboriginal women who stated that they were coerced into having a tubal ligation immediately after childbirth in a Saskatoon Health Region hospital. Boyer and Bartlett used a participatory methodology to present the voices of seven Indigenous women as well as those of several health care providers of the Saskatoon Health Region. The data collected from interviews showed that most of the women did not understand that tubal ligation was permanent and felt coerced into the sterilization procedure. A lasting negative consequence was a complete breakdown in the women's trust of the healthcare system, not only for themselves but for their families as well. Health provider interviews showed that some hold negative perceptions and attitudes about Indigenous women, that providers willfully ignored or were indifferent to the autonomy of Indigenous women and performed unwanted procedures, and that relative to non-Indigenous patients, Indigenous women in labour and delivery do not have their needs adequately met.

The evidence gathered by Boyer and Bartlett of different treatment experienced by Indigenous women who were coerced into sterilization in the Saskatoon Health Region

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is indefensible. For example, one patient described the conversation with a nurse while she was being sterilized. When she asked about a burning smell and sensation, the nurse said that the burning was from hernia repair, deliberately misleading the patient during a tubal ligation procedure. Another woman recalled that nursing staff made unsolicited, irrelevant, and inappropriate comments about her lifestyle. It was stressed by all of the women interviewed that when they said no, they meant no, but were sterilized anyway. One woman related, "I told the anesthesiologist that I don't want this. The doctor was talking to the nurses and said, 'Did she sign consent?' The nurse said 'yes'. But the doctor clearly heard me say, 'I don't want this.'"[1] The woman was then sterilized.

A second recent report about anti-Indigenous racism in healthcare was released in September 2017. This report discussed racism in the death of and subsequent inquest regarding Brian Sinclair, a 45-year-old First Nations man who, in 2008, died of a treatable bladder infection after being ignored for 34 hours in the emergency department of the Health Sciences Centre in Winnipeg. *Out of Sight: A Summary of the Events Leading Up to Brian Sinclair's Death and the Inquest that Examined It and the Interim Recommendations of the Brian Sinclair Working Group* was the work of a multi-disciplinary group of health care professionals, researchers, and academics called the Brian Sinclair Working Group.[2] In the report, the group aimed to identify and address manifestations of racism in health care that authorities evaluating the case had chosen to ignore. The group believes that it is important to tell and retell the story of Brian Sinclair so that it will not be forgotten, and because in doing so, we can learn critical lessons about how anti-Indigenous racism functions in our health and legal systems.

The report's first task was to tell the story of what went wrong as the group came to understand and analyze it. In this, the group shows that Brian Sinclair came to the Health Sciences Centre Emergency Department (HSC ED) seeking urgent, but not critical, care. Had he received the care he needed, he would not have died. The group explains that Mr. Sinclair's presence in the waiting room was visible to HSC ED staff, but he was not seen as a patient needing care. Instead he appeared only as someone to be ignored. Because staff assumed that he was homeless or intoxicated or just hanging around the ED, no inquiries were made into why he was still in the waiting room at any point during the 34 hours that passed after he wheeled himself in. Even as his medical situation worsened and he began vomiting and slumping further in his chair, no one saw him as a patient in distress. When members of the public intervened on his behalf, HSC ED staff members were quick to explain that he was not sick, but rather sleeping or intoxicated. This willful blindness to Mr.

1 Yvonne Boyer and Judith Bartlett, "External Review: Tubal Ligation in the Saskatoon Health Region: The Lived Experience of Aboriginal Women," July 22, 2017 at 32 [Tubal].

2 The Brian Sinclair Working Group members are: Dr. Annette J. Browne (professor of nursing, UBC), Emily Hill (Aboriginal Legal Services), Dr. Barry Lavallee (physician and Director of the Centre for Aboriginal Health Education at the University of Manitoba), Dr. Josée Lavoie (professor of Community Health Sciences and Director of Ongomiizwin–Research at the University of Manitoba) and Dr. Mary Jane Logan McCallum (professor of history at the University of Winnipeg).

Sinclair's experiences allowed him to die in plain sight of the Canadian health care system.

Mr. Sinclair's death, the group argues, was not the result of a once-in-a-lifetime "perfect storm"[3] of multiple coinciding mistakes in the policies and procedures of processing patients in the ER, as was argued at the inquest.[4] Nor might just anyone have received the same treatment under the same circumstances, as the Chief Medical Examiner of Manitoba argued. Rather, his death was the result of racism, of indifference, of a lack of empathy, and of staff choosing consistently to refuse care to an Indigenous person. As such, Sinclair's death is analogous to other untimely deaths of Indigenous people in hospitals, in police custody, in prisons, and in mental health centres.

These two reports make significant recommendations to be undertaken immediately; anything less, it is argued, would be to continue to condone inequality and discrimination in healthcare. The Brian Sinclair Working Group urges federal, provincial, and territorial departments and institutions to implement explicit anti-racist policy and to report on progress annually to national Indigenous groups adequately supported with resources. They recommend that Manitoba Health, and other provincial and territorial health departments across the country, develop anti-racism implementation plans that include specific actions, remediation, and supports. The working group also recommends schools of health adopt anti-racism education and cultural safety training, and that schools increase the number of visible First Nations, Métis, and Inuit health care students, faculty, and administrators and commit to anti-racist policies to improve the experience of all learners. Other recommendations include that unions and nursing and medial professional organizations issue statements of zero tolerance for racism in the workplace, adequately develop mechanisms to receive complaints of Indigenous patients, and develop processes to make professionals accountable. Finally, the group recommends that every Regional Health Board ensure it has representation by First Nations, Métis, and Inuit in proportion to their pattern of health care use.

In their review, Boyer and Bartlett reiterate the claims made by the women they interviewed, and recommend that a framework be implemented that requires physicians and health care policymakers to review and analyse the United Nations' Declaration on the Rights of Indigenous People and the Truth and Reconciliation Commission's Calls to Action. Their validity must be prioritized, and recommendations that will work for them, their departments, and the overall health policy and law processes in Canada must be implemented. Through the lens of the Truth and Reconciliation Commission's recommendations, Boyer and Bartlett argue, the Canadian healthcare system can acknowledge its racism, restructure the health care system, and begin the hard work of delivering culturally appropriate and adequate, equal, and fair services to Indigenous peoples. More specifically, they call for immediate mandatory appropriate cultural training; education in healthcare professions;

3 William Olsen, the lawyer for the WRHA, argued, "A perfect storm occurred."

4 Following this, it was argued that "no single person" could be "responsible" for what happened, and it was suggested that Sinclair, soft-spoken, hard to understand, and cognitively impaired, was also to blame.

restructuring, to include extraordinary measures with culturally grounded primary health care, including a reproductive centre; and creation of an advisory committee comprised of elders and grandmothers who have an equal voice in the development, implementation, and monitoring of all changes. Policy revision is critical to support this deep structural change, and the women who have been coerced into sterilization must be compensated in whatever ways will promote healing.

An independent Indigenous ombudsperson should be appointed in the Saskatoon Health Region as a starting point. A federal watchdog in Indigenous health care should be considered from a national perspective.[5] This person could proactively address racism in health care and the substandard treatment that Indigenous people in Canada have received. What happened in the Saskatoon Health Region and the Winnipeg Regional Health Authority are not isolated incidents. The problem is pervasive and embedded in our legal, policy, and ethical structures in Canada. It is the deliberate withholding of care from those who need it. The first step is recognizing this fact and making a commitment to take action. Following the release of *Out of Sight* at a packed lecture theatre in Winnipeg, a discussion arose about evidence-based accountability in health care, and about complaints of racism by both patients and staff. In this discussion, the possibility of tracking patient outcomes arose, in which some argued for the need to collect information about racial background when patients are admitted in order to compare and contrast treatment times and treatment methods in ways that can identify and, it is hoped, improve equity in health care. Such models have been used in the US, and there is currently no consensus among Indigenous professionals and scholars about the broader impacts and efficacy of this approach. However, it was agreed that safe, consistent procedures by which patients and staff can document complaints about racist treatment when it happens and procedures for follow up were not common or not widely known. This was attributed to a fear of reprimand from those with seniority, an inadequate nor non-existent system for filing complaints, or simple unawareness about the procedures in place for filing complaints; the fact that this information was not readily made available when requested compounded the experience of racism in the system.

Together, these two reports show that we have a serious problem with racism in health care in Canada. While it would be foolish to think that this can be addressed simply and quickly, especially given the country's long, long history of colonialism and marginalization, we argue that to wait for it to resolve itself without serious intervention is even more foolish. Documenting these issues is an important part of understanding them; it is now up to leaders in the field to develop and hone effective policy.

5 See Office of the Correctional Investigator of Canada, http://www.oci-bec.gc.ca/index-eng.aspx.