

2019-2020

# ANNUAL REPORT

OFFICE OF THE  
CORRECTIONAL  
INVESTIGATOR



The Correctional Investigator  
Canada

L'Enquêteur correctionnel  
Canada

Canada





The Correctional Investigator  
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June 26, 2020

The Honourable Bill Blair  
Minister of Public Safety and Emergency Preparedness  
House of Commons  
Ottawa, Ontario

Dear Minister,

In accordance with section 192 of the *Corrections and Conditional Release Act*, it is my privilege and duty to submit to you the 47<sup>th</sup> Annual Report of the Correctional Investigator.

Yours respectfully,

Ivan Zinger, J.D., Ph.D.  
Correctional Investigator



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## Correctional Investigator's Message

**M**y Annual Report this year looks and reads a little differently than previously. First, I am reporting out on three **national-level investigations** conducted in 2019-20:

1. *A Culture of Silence: National Investigation into Sexual Coercion and Violence in Federal Corrections*
2. *An Investigation of Therapeutic Ranges at Male Maximum Security Institutions*
3. *Learning behind Bars: An Investigation of Educational Programming and Vocational Training in Federal Penitentiaries*

The publication of these investigations in an annual report reflects the direction in which my Office is moving – towards more systemic-level work. I am proud to feature these pieces in this year's report, and will come back to put some emphasis on the learning and sexual violence reports.

Second, the chapters in which I typically organize and present my report have been replaced by a section entitled **National Issues – Major Cases and Updates**. Like the thematic chapters it replaces, this section serves as the documentary record of policy issues or significant cases addressed at the national level in 2019-20. Among other issues, in this section the reader will find an update on Indigenous Corrections as well as case summaries, findings and recommendations from investigations into Medical Assistance in Dying, use of dry cells, major use of force incidents, and an assessment of legislative reforms (Bill C-83) introduced in the reporting period.



In terms of the national-level investigations featured in this year's report, my Office has a long history of reporting on learning and vocational training behind bars and has made a dozen or so national-level recommendations in the past ten years. CSC has remained steadfast and impervious to expanding or updating inmate access to technology and information behind bars. Many prison shops require offenders to work on machines no longer used in the community. Few prison industries provide training or teach skills that are job-ready, or meet current labour market demands. Incentives to put in an "honest day's work" are few and far between; many offenders told us that they perform mindless work, otherwise they would be locked up all day. The Service has continued to maintain and invest in obsolete industries and infrastructure and prisons have become such information-depriving environments that these problems now appear unsolvable.

Since 2002, there has been a moratorium in place prohibiting offenders from bringing a personal computer into a federal institution. In 2011/12, CSC outright rejected the Office's recommendation to lift this ban and this decision is still in effect today. The Service's response to other recommendations to expand learning and skills acquisition, including opening up access to more Red Seal trades and apprenticeship programs, have generally focused on limited pilots; they have not been addressed in a substantive or sustained way. There has been little movement on recommendations designed to promote digital literacy behind bars – access to monitored email, tablets or supervised use of the Internet. Federal corrections in Canada is falling further behind the rest of the industrialized world and is failing to provide offenders with the skills, education and learning opportunities they need to return to the community and live productive, law-abiding lives.

Given the overall inertia and inaction in this area, I have elected not to make any additional recommendations to CSC arising from this investigation. Instead, I want to direct a summative recommendation to the Minister:

- 1. I recommend that the Minister of Public Safety establish an independent expert working group to guide implementation of the Office's current and past recommendations on education and vocational training in federal corrections. This work should include timelines and clear deliverables.**

Prison sexual violence is an issue that has gone ignored for too long. As it stands, there are no public statistics, research or academic literature published in this area in Canada. As a result, the prevalence and dynamics of the problem in federal corrections are poorly understood. CSC does not publicly report on this problem, does not collect, record or track statistics and has never conducted research in this area. It is largely by virtue of this silence and organizational indifference that there are considerable gaps in the Service's approach to detecting, tracking, responding to, investigating, and preventing sexual coercion and violence. At the very least, what we have confirmed in the course of this investigation is this: sexual violence is a *systemic* problem that exists in Canadian federal prisons. Furthermore, violence and victimization disproportionately affect those who are already the most vulnerable to maltreatment and negative correctional outcomes.



Sexual violence need not be seen or dismissed as an inevitable consequence of the incarceration experience, even if it is an issue that “runs below the radar” as one staff member told us. And an organizational culture that looks the other way is one that passively enables such destructive and predatory elements to thrive. In my report, I have offered some recommendations aimed at bringing this issue out of the shadows, and I implore federal corrections to take cues from countries who have implemented a bold, zero-tolerance approach to eradicating sexual violence from their prison system. It is time for CSC to have an open and honest conversation about this problem and what can be done about it. Confronting these issues requires leadership not silence. As with other complex correctional dynamics, it is one that can be prevented through intentional, evidence-based interventions. These efforts will, however, require cultural and attitudinal shifts, among staff and inmates alike.

My assessment is that legislation is required to ensure this issue is properly addressed and given the profile and attention it deserves. Therefore, I make the following recommendation:

2. **I recommend that the Minister of Public Safety introduce, in the next year, a legislative package that endorses a zero-tolerance approach to sexual violence in federal corrections and establishes a public reporting mechanism for preventing, tracking and responding to these incidents, similar to the *Prison Rape Elimination Act* in the United States.**

In the meantime, CSC should put in place a proper, dedicated and robust policy and review framework that would anticipate and prepare for the introduction of legislated reforms in this area.

In closing, there can be no doubt that the COVID-19 situation threw a curve ball into all of our lives, not just workplans and corporate priorities. We finished out the reporting year (March 31, 2020) in the middle of a pandemic outbreak. Though visits by my Office to institutions were suspended mid-March, critical services were maintained. Clearly, however, it will be some time before things normalize, and no one can predict when my Office or CSC will resume to a business as usual footing. I want to commend my staff for how this crisis and the disruptions to normal workplace routines have been managed. There undoubtedly will be a time and place to consider the lessons learned from this experience, but I will save that for another, and hopefully, brighter day.

**Ivan Zinger, J.D., Ph.D.**  
**Correctional Investigator**  
**June 2020**



## Executive Director's Message

I cannot express enough thanks to all OCI team members for their dedication and hard work in delivering our mandate with the highest degree of excellence and professionalism throughout the entire fiscal year, which ended under extraordinary circumstances. The end of the fiscal year was anything but *business as usual*.

The COVID-19 pandemic impacted OCI operations at their very core, resulting in the activation of our Business Continuity Plan in mid-March. As an essential service providing critical external prison oversight, around 90% of our staff had to work from home and we suspended all of our planned visits to penitentiaries. Nonetheless, our team members kept delivering on their core functions – taking inmate calls, investigating individual complaints, reviewing uses of force incidents – all the while taking stock of a new reality by monitoring inmates' conditions of confinement in all federal penitentiaries on a regular basis. Of note, the Office was able to increase the number of complaints it addressed from last year.

At the time of writing this message, five out of 43 penitentiaries had outbreaks of COVID-19 infections among inmates, and only one known active case. As the CSC deployed an array of measures to prevent the introduction and spread of COVID-19 inside all of its institutions, our team was there to take the pulse. In April, our Office published a COVID-19 Status Update highlighting the impacts and challenges of this pandemic on federal penitentiaries, all the while demonstrating the need for the CSC to ensure compliance with

both human rights and public health standards. In June, our Office issued a second COVID-19 update that focused on the prompt return to the "new normal."

Beyond the COVID-19 situation, over the past fiscal year, the investigative team responded to 5,553 offender complaints, conducted 1,132 interviews with offenders, and staff spent a cumulative total of 354 days visiting federal penitentiaries across the country. The Office's use of force and serious incident review teams conducted 1,109 use of force compliance' reviews and 109 mandated reviews involving assaults, deaths, attempted suicides and self-harm incidents. On the research and policy side, the Office finalized three key national systemic investigations and included them in this year's Annual Report, despite the impact of the pandemic on workload and priorities.

The Office has introduced new business practices to optimize linkages between individual investigations and systemic reviews/ investigations. A few of the measures to achieve this goal include the co-location of the policy and research group with the investigative stream, regular coordination meeting between these two teams, and the introduction of the CI cases (i.e. Correctional Investigator cases), whereby the investigative stream identifies and brings to the CI's attention individual cases that have potential systemic dimensions.

I share the Correctional Investigator's vision for the office as a world-leading correctional ombudsman's office, particularly in today's digital economy. I picture an innovative, adaptive and flexible organization, confident in the face of rapid technological change. This year, the OCI made great strides in implementing new technologies to assist the Correctional Investigator in filling his assumed function. Some of these new technologies include: hosting the public web site using Cloud services, a shared case management system leveraging modern software and a collaboration platform to communicate internal information. As the pace of digital disruption is accelerating, the OCI developed a five-year IM/ IT plan that takes the organization from one that is mostly paper-based system to one with a full digital office.

In the year ahead, the Office will build upon the great work already undertaken and modernize our business processes in an effort to improve investigations of offender complaints and systemic issues, in order to fulfill our legal mandate to its fullest.

**Marie-France Kingsley**  
**Executive Director**



Kent Institution

## NATIONAL ISSUES

# Major Cases and Updates

## Introduction

This section summarizes policy issues or significant individual cases raised at the national level in 2019-20. Most of the issues and cases presented here were the subject of an exchange of correspondence or an agenda item on bilateral meetings involving the Commissioner and myself along with our respective senior management teams. These meetings have proved useful in bringing forward issues, exchanging perspectives and seeking earlier and less formal ways to resolve them. This section, then, serves to document progress in resolving issues of national significance or concern.

### 1. Medical Assistance in Dying (MAiD) – Case Reviews

In my 2018-19 Annual Report, I announced that the first medical assistance in dying (MAiD) procedure performed *inside* a federal correctional facility had occurred, and that my Office would carry out a review of this case.<sup>1</sup> There are three *known* cases of MAiD in federal corrections, two carried out in the community, and each raises fundamental questions around consent, choice, and dignity. In the two cases reviewed in the reporting period, my Office found a series of errors, omissions, inaccuracies, delays and misapplications of law and policy.

My investigation of the assisted death performed in a penitentiary turned on the question of whether there were more humane alternatives for managing this particular individual's progression of terminal illness. To be clear, I have no doubt that the actual procedure, in this instance, was carried out professionally and with due consideration to the criteria laid out in Bill C-14. That was not the focus or concern of my review. Though I do not want to identify this individual,

it is important to know that he was a non-violent recidivist serving the minimal (two-year) period allowable for a federal sentence. Even after parole was denied, I question how this particular individual's risk could have been considered unmanageable in the community given his terminal illness. The decisions to deny parole and then provide MAiD in a prison setting seem out of step with the gravity, nature and length of this man's sentence. With no other alternative available, the decision to deny full and day parole was almost certainly a factor in shaping his decision to seek MAiD. My review raised other questions about whether his case management team exercised due diligence or sufficient urgency in considering a suitable community placement, or what specifically prevented CSC from submitting a parole by exception (Section 121) compassionate release application to the Parole Board of Canada.<sup>2</sup>

I shared these and other concerns with the Commissioner in early August 2019. In its response, CSC insisted that the decision to proceed with assisted death in the correctional facility was based on the explicit request of the inmate. It cited professional standards of practice to accept and respect the "wishes of competent patients." It should be noted that, in this particular case, the individual expressed interest in "compassionate parole" within weeks of receiving news of his terminal illness, and several months before MAiD was administered. His parole application was submitted less than a month later, which was subsequently denied. Even still, case management records indicate that he expressed interest *again* for "compassionate leave" and submitted an application to appeal the Parole Board decision less than a few weeks before undergoing MAiD. Up until a few days before his death, there were high-level exchanges between CSC and the Parole Board to ensure that all avenues for release had been exhausted.

<sup>1</sup> To my knowledge, Canada is one of only a very few countries in the world that allows for assisted dying in a prison setting.

<sup>2</sup> "Parole by exception" is a mechanism in law to permit an exceptional parole consideration for those who have not yet reached their parole eligibility date and only under certain circumstances. These circumstances include when an offender is terminally ill or whose physical or mental health is likely to suffer serious damage if the offender continues to be held in confinement or for whom continued confinement would constitute excessive hardship that was not reasonably foreseen at the time of sentencing.

As I have discussed numerous times before, questions of autonomy and free choice in the context of incarceration are difficult to square. In this case, the “wishes of competent patients” must be seen in context of the seemingly inflexible system of sentence administration and lack of viable release alternatives for non-violent offenders, including medical parole. It would seem that this man “chose” MAiD not because that was his “wish,” but rather because every other option had been denied, extinguished or not even contemplated. This is a practical demonstration of how individual choice and autonomy, even consent, work in corrections.

The other case of MAiD investigated this past year revolves on the intersection of mental and physical illness and the capacity to provide informed and voluntary consent for assisted death. In that case, the inmate was suicidal and suffering from mental illness. He was terminally ill and a designated Dangerous Offender. He would threaten suicide if he was not provided MAiD. His prospects for release, even considering the advanced stages of his illness, were minimal.

Once again, these are circumstances that would never be confronted by free citizens in the community when choosing to end life. Hopelessness, despair, lack of choice and alternatives, conditions imposed by the fact and consequence of incarceration, are issues magnified in the correctional setting. As the Government considers extending MAiD beyond physical illness to intolerable psychic pain, there must be careful deliberation of the mental health profile of Canada’s prison population. For prisoners, matters of free choice are mediated through the exercise of coercive administrative state powers. There is simply no equivalency between seeking MAiD in the community and providing MAiD behind prison walls.<sup>3</sup>

CSC’s response also stated that Health Services would strengthen its information sharing processes with the Parole Board to strengthen early release decision making. This would apply to all persons with a “designation of terminal illness and is not exclusive to those seeking [MAiD].” Further, CSC stated that it had implemented a communications strategy in June 2019 to “spread awareness of Section 121 of the [*Corrections and Conditional Release Act*].” These are necessary measures, but need to be considered in context of how rare and difficult it is to gain exceptional release from prison on compassionate or terminal illness grounds.<sup>4</sup>

My review of these cases suggests that the decision to extend MAiD to federally sentenced individuals was made without adequate deliberation by the legislature. Though I understand and accept the Government’s decision to make assisted death available to those under federal custody, two aspects of how MAiD was legislated and later applied in the correctional context seem to make little sense from an accountability and public transparency point of view. The first is the decision to exempt CSC from reviewing or investigating MAiD deaths. This exemption is untenable given that CSC is, *de-facto*, the state agent that enables or facilitates assisted death to people under federal sentence. There just has to be some degree of internal scrutiny, transparency and accountability that goes with the exercise of such ultimate and extreme expressions of state power, even if MAiD is provided for compassionate reasons. By removing the legislative requirement for CSC to investigate, this measure also removes the obligation for the Service to provide notice “forthwith” of an inmate death involving MAiD to my Office. In effect, there is no legal or administrative mechanism for ensuring accountability or transparency for MAiD in federal corrections.<sup>5</sup> Surely, this exemption was an oversight that demands correction.

<sup>3</sup> I have sought guidance on these matters from the Ethics Committee of the Canadian Medical Association.

<sup>4</sup> According to the Parole Board of Canada, there were seven parole by exception cases received last year, of which four were granted.

<sup>5</sup> CSC is required to provide cause of death for all fatalities behind bars. Up until very recently, one MAiD case was listed as “suicide.”



Secondly, that MAiD is allowed to be carried out in a penitentiary setting, under so-called “exceptional circumstances,” seems inconsistent with the legislation’s intent to provide Canadians with a legal option to end their life with dignity at a time and place of their choosing. It is simply not possible or desirable to provide or meet those intents in context of incarceration. As I have stated previously, the decision to seek MAiD is best made in the community, by parolees not inmates. Canada’s correctional authority should not be seen to be involved in enabling or facilitating any kind of death behind bars. It is simply incongruent with CSC’s obligation to protect and preserve life.

- 3. I recommend that the Minister of Public Safety jointly with the Minister of Justice and Attorney General of Canada strike an expert Committee to deliberate on the ethical and practical matters of providing MAiD in all places of detention, with the aim of proposing changes to existing policy and legislation. This deliberation should consider the issues brought to light by my Office, as well as the latest literature emerging from Canadian prison law and ethics. In the meantime, and until the Committee reports, I recommend an absolute moratorium on providing MAiD *inside* a federal penitentiary, regardless of circumstance.**

## 2. Replacement of CSC's Prisoner Escort Vehicles

In my 2016-17 Annual Report, I brought forward a series of safety, design and dignity concerns regarding CSC escort vehicles used for institutional transfers and to transport prisoners to attend court, temporary absences or outside medical appointments. At the time, I wrote about the claustrophobic experience I had in sitting scrunched in the back of one of these vehicles:

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...the experience left me feeling as if personal safety and human dignity did not matter to the designers or operators of such vehicles. ...Completely enclosed in metal, the compartment insert where shackled prisoners are kept is totally devoid of any comfort or safety feature, including seatbelts. These vehicles, which are essentially retrofitted and modified family minivans (e.g. Dodge Caravan), were never designed or crash-tested with a metal compartment of this size. Should there be an accident, as occurred in New Brunswick in 2013, individuals within the compartment would literally be thrown around inside, which could result in critical injury or even death.

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In response, the Service committed to replacing its current fleet of escort vehicles to "reflect recent industry advancement in design and configuration." It also agreed to review purpose-built security escort vehicles currently in use by the RCMP.



OCI employee seated in the back of CSC's prototype security escort vehicle

In September 2019, the Office was invited to view a prototype for the replacement of CSC's security escort vehicles. The design of the prototype vehicle, like its predecessor, had similar disregard for health, safety, space, dignity or comfort of inmate passengers. Bench width, seat to ceiling height and overall cubic feet of space were not a demonstrable improvement on the previous claustrophobic design. The prototype had no seatbelts for inmate passengers, despite being supplied with these assemblies from the manufacturer. On the other hand, the prototype can accommodate up to five staff members in relative comfort and safety, raising the possibility that the design of the inmate insert may have been compromised to accommodate CSC policy requirements for security escorts.<sup>6</sup>

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<sup>6</sup> CSC policy requires two officers for the escort of one inmate (inclusive of the driver), and one additional officer for each additional inmate passenger. Disregarding whether in fact there is enough room in the inserts to transport more than two inmates at any one time, when queried whether the new vehicles would ever be used to transport four medium or maximum-security inmates, CSC could not adequately answer.



CSC's Security Branch cites three generalized concerns with equipping their escort vehicles with seatbelts:

- i. Concern over seatbelts becoming weapons and being used against staff/offenders in a violent way.
- ii. Concern for staff safety in reaching inside the vehicle to unbuckle an offender.
- iii. Concern in the event that an inmate harm him/herself with the buckle or the strap.

When asked to provide specific incident data, cases or evidentiary information that demonstrates that seatbelts have ever been used in such violent manners, CSC has yet to produce any such documentation. When asked if CSC escort vehicles were equipped with seatbelts in the past, the Service was unable to answer. Impressionistic or anecdotal evidence should not be used as a substitute for fact.

When these and other concerns, including the fact that the Service failed to consult with inmates in the design or procurement stages, were brought forward to the Commissioner in late November 2019, she responded that she would personally inspect the prototype vehicle. Subsequent to this inspection, I understand that consideration is being given to additional features "to increase the space available for inmates and address concerns related to seatbelts, including the possibility of adding an extra bench."

The protracted resistance and still apparently unresolved decision on the seatbelt issue reflects poorly on the Service. When CSC staff members were asked if they would allow a family member or loved one to ride in the back of one of these vehicles without seatbelt restraints, hand holds or other means to protect oneself the answer was decidedly no.



Compartment for inmate transport in CSC's prototype security escort vehicle

It does not need to be this way. With self-reflection, innovation in design and change in attitude, there is nothing that is irreconcilable with staff safety/security in equipping prisoner escort vehicles with seatbelts. Citing unfounded and uninformed security “concerns” should never be allowed to stand in the way of reason, professionalism or evidence. Finally, (though it should never have to come down to this), if CSC fails to equip these vehicles with seatbelts, it will be in violation of the *Canada Motor Vehicle Safety Standards* (CMVSS), specifically CRC c.1038.<sup>7</sup>

- 4. I recommend that the replacement fleet of CSC escort vehicles be equipped with appropriate safety equipment for inmate passengers, including hand holds and seatbelts, and that any prototype vehicle be inspected by Transport Canada authorities before being put into production and service.**

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<sup>7</sup> Before the latest amendments to federal motor vehicle regulations, which were mostly aimed at seatbelt assemblies for passenger buses, there was no reference to vehicles dedicated to the transport of inmates. In the latest amendments, Transport Canada adopted American standards for safety features for buses and, in so doing, adopted similar seatbelt exclusions for what are called “prison buses” (by definition, meaning 10 or more inmate passengers). Since CSC’s escort vehicles have less than 10 designated seats, they are not excluded from the federal requirement to provide seatbelt assemblies.

### 3. Bill C-83 Reforms and Implementation

On June 21, 2019, Bill C-83 *An Act to amend the Corrections and Conditional Release Act and Another Act*, received Royal Assent. It promised to make “transformational changes” to the federal correctional system. The primary legislative intent was to abolish solitary confinement as defined by the *Mandela Rules* (confining inmates for 22 hours or more a day without “meaningful human contact”) by replacing the previous administrative segregation regime with Structured Intervention Units (SIUs). Implemented at the end of November 2019, there are SIUs at ten men’s institutions as well as all five regional women’s facilities.

#### Structured Intervention Units (SIUs)

Bill C-83 maintains the previous grounds for administrative segregation placements, namely when an inmate cannot be managed safely within a mainstream population. As with the former administrative segregation regime, the new legislation does not prohibit the placement of mentally ill people in SIUs, nor does it place hard caps on how long individuals can be kept in restrictive confinement environments. Due process consists primarily of a paper review by an external reviewer of material prepared and provided by CSC.

Section 32(1)(b) of the *Corrections and Conditional Release Act* (CCRA) stipulates that an inmate in a SIU must be provided an opportunity for “meaningful human contact.” Section 36(1) then provides for four hours of out-of-cell-time including:

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...the opportunity to interact, for a minimum of two hours, with others, through activities including, but not limited to, a) programs, interventions and services that encourage the inmate to make progress towards the objectives of their correctional plan or that support the inmate’s reintegration into the mainstream inmate population, and b) leisure time.

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A regular SIU cell at Edmonton Institution (formerly a segregation cell)



An occupied cell in the SIU at Kent Institution



The SIU at Port-Cartier Institution

As implemented, my Office has observed that the policy and practice to replace segregation is now largely defined by “time out of cell.” The opportunity to interact includes interactions between inmates and staff. To get to the point of the matter, it is the *quality* not quantity of human contact that counts, as well as the forms through which humanity is mediated in a prison setting. Policy should articulate and define what the law prescribes. Failing to operationalize “meaningful human contact” means that staff are left with little guidance on their legislated obligations. Some practical examples might help to illustrate the point:

- Is it enough to use fencing fabric in lieu of solid physical barriers to facilitate “meaningful” contact with other inmates in adjacent SIU yards?

- Are non-contact visits considered “meaningful” human contact?
- When a self-injurious inmate is counseled through or communicates via a food slot, should these contacts be considered “meaningful”?
- Do video visits meet the interaction standard? What about watching TV alone, in a cell, or with others?
- Does the inmate’s perception of “meaningfulness” count, or does any out-of-cell contact facilitated by correctional staff meet the test?

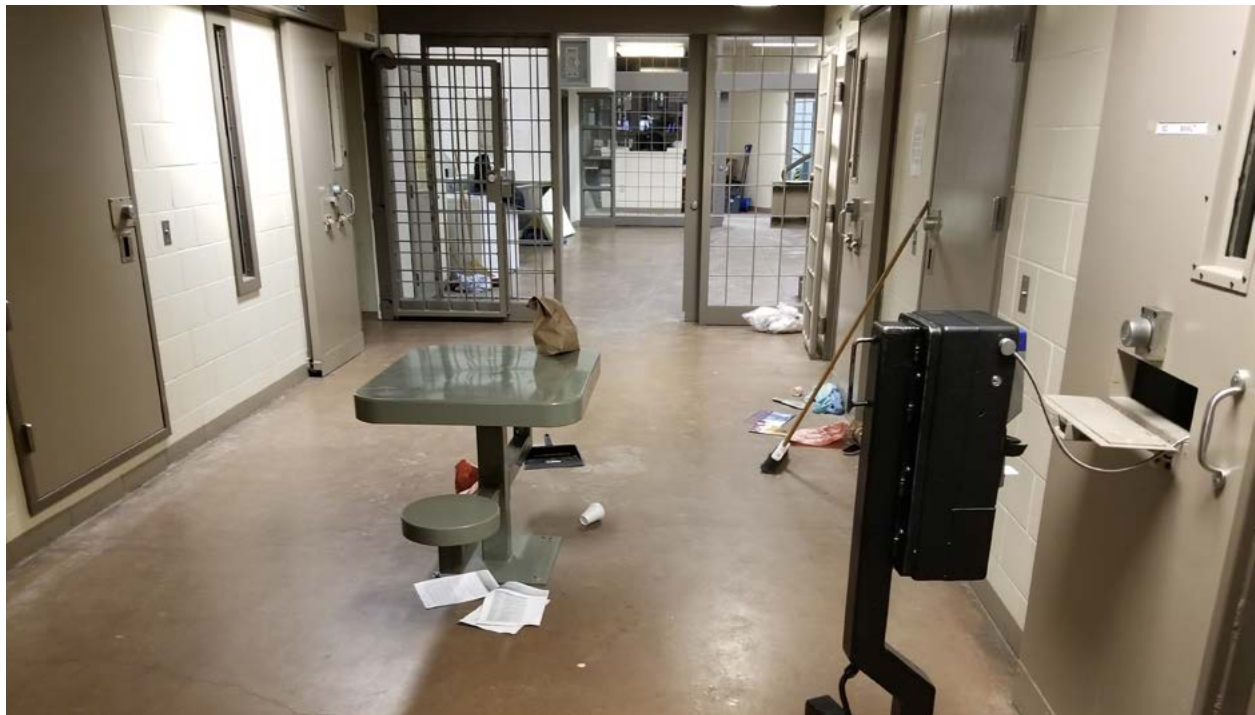
Given that the term “meaningful” is subjective and open to debate and interpretation, I have suggested that CSC look elsewhere for inspiration. For example, the Essex body of international experts<sup>8</sup> has defined “meaningful human contact” in these terms:

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Such interaction (*meaningful human contact*) requires the human contact to be face-to-face and direct (without physical barriers) and more than fleeting or incidental, enabling empathetic interpersonal communication. Contact must not be limited to those interactions determined by prison routines, the course of (criminal) investigations or medical necessity.

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However the term is operationalized, more must be done to open up SIUs to non-correctional personnel – outside groups, associations and stakeholders – who have proven and established rapport and trust among inmates. Expanding the range and opportunity for *meaningful* human contact in a maximum-security setting means going beyond the provision of CSC interventions (or singular engagements), in which staff cumulatively record an inmate’s time-out-of-cell, daily, on an Android phone app (a recently implemented measure). Inmates who find their way into these units are not likely to be overly responsive to CSC overtures to participate in correctional programs and interventions. As it stands, all the time-out-of-cell examples, including access to programs, interventions, educational, cultural, spiritual, and leisure opportunities contemplated in policy, are defined and determined by internal prison rules and institutional routines. It is not at all clear that inmates in these units will find these measures “meaningful” to *them*.



An occupied cell in the SIU at Kent Institution

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<sup>8</sup> In 2016, Penal Reform International and the University of Essex Human Rights Centre organized a meeting of international experts to deliberate on the interpretation and implementation of the Mandela Rules (Penal Reform International, 2017).



## Clinical Independence and Professional Autonomy of Registered Health Care Personnel

Bill C-83 includes important new provisions to support the professional autonomy and the clinical independence of registered health care professionals, including their freedom to exercise, without undue influence, professional judgement in the care and treatment of patients. Providing a legislative foundation for these principles better aligns correctional health care practice with international standards, including Rule 27 (2) of the *Mandela Rules*: “Clinical decisions may only be taken by the responsible health-care professionals and may not be overruled or ignored by non-medical prison staff.”

In practice, however, certain aspects of both legislation and policy contravene these intentions. Consistent with Rule 33 of the *Mandela Rules*, the new legislated reforms include provisions that require registered health care professionals to advise the institutional head if they believe that the conditions of confinement in a SIU should be terminated or altered for physical or mental health reasons (CCRA, s. 37.2). Even so, the health care professional only has the power to *recommend*. The authority to accept or reject the advice of the registered health care professional resides with the Warden. The clinician’s recommendation is subject to several levels of administrative review, delay and quashing.

Full clinical independence and undivided loyalty to patients in a correctional setting is undoubtedly difficult to accomplish. Many correctional jurisdictions struggle to consistently meet these principles because of a “lack of awareness, persisting legal regulations, contradictory terms of employment for health professionals, or current health care governance structures.”<sup>9</sup>

This is also the case for CSC. The fact of the matter is that CSC’s Health Services is not fully independent from CSC operations. At the very least, full clinical independence would require prison health care staff to be employed by the provincial health body or the national health authority.

## Patient Advocates

Patient advocacy services were included as part of the menu of reforms enacted through Bill C-83.<sup>10</sup> Specifically, section 89.1 of the CCRA now requires the Service to provide access to “patient advocacy services to support inmates in relation to their health care matters; and to enable inmates ... to understand the rights and responsibilities of inmates related to health care.” This is an important and necessary measure. CSC needs a Patient Advocate model to protect the rights of patients; help patients explore all available alternatives; and to ensure that they fully understand the implications of their decisions without compulsion. Further, I am of the opinion that patient advocates should be external and functionally independent of the CSC. Such a model would better support the legislative intent of C-83 and would be more aligned with the spirit of the *Mandela Rules*.

- I recommend that CSC review independent Patient Advocate models in place in Canada and internationally, develop a framework for federal corrections and report publicly on its intentions in 2020-21 with full implementation of an external Patient Advocate system in 2021-22.**

<sup>9</sup> See, for example, Pont, J., Enggist, S., Stöver, H., Williams, B., Greifinger, R., and Wolff, H. (2018). Prison health care governance: Guaranteeing clinical independence. *American Journal of Public Health*, 108(4), 472-476.

<sup>10</sup> The recommendation for a Patient Advocate model reaches far back before Bill C-83. The Office first recommended that CSC should appoint an “independent” patient advocate at each of its five Treatment Centres in 2013. This recommendation echoed a similar measure (i.e., the Independent Rights Advisor and Inmate Advocate) identified in the Ontario Coroner’s inquest into the preventable death of Ashley Smith (December, 2013).

#### 4. Use of Force Reviews – Egregious Cases

In the reporting period, the Office's use of force review team identified a handful of egregious or inappropriate use of force interventions, two of which are captured below. These two cases illustrate the importance of my Office's function in reviewing and overseeing use of force incidents in federal institutions. Though our external reviews are critical for transparency and accountability, this function is not, nor intended to be, a replacement for a robust and vigilant internal use of force review system.

##### Pain Compliance

In the first case, which involved Officers using a variety of pain compliance techniques to force an inmate to expel contraband (drugs) suspected of being secreted in his mouth, the facts are well-established because they are recorded on

video. The inmate is escorted to an observation (dry) cell for a strip search. Refusing to show officers what may be under his tongue (suspected drug package), the inmate is restrained on the ground, already cuffed from behind. While lying naked on his stomach, and with several Officers present, a series of "pain compliance techniques" are applied – ankle torsions, pressure points on the nose and on the forehead, stepping (full weight) on the back of the inmates' knees and on his ankles, rolling of baton on his ankles. On the Warden's authorization, pressure points are also applied to the inmate's jaw. Video evidence determines that various pain compliance techniques are used for 17 continuous minutes. None have the desired effect.

The inmate is eventually left alone in the dry cell where he later shows signs of a drug overdose. Narcan is administered and an ambulance called. He eventually provides the mostly empty package, which subsequently tests positive for heroin.



CSC officers restraining the inmate prior to applying "Pain Compliance"



Contrary to the *Engagement and Intervention Model*, the officers and managers present do not appear to reassess the need, effectiveness or reasonableness of their interventions. Though the inmate had clearly stated and shown that he had no intention of handing over the secreted package, he did not display any other overt signs of violence or other resistive behaviours.

Despite obvious questions about the necessity or proportionality of force used in this case, the institutional (Level 1) review determined that the force used was appropriate, though some secondary concerns were raised about the pain compliance techniques applied (which are usually only used for a very short period of time in order to gain compliance or control of a person). Once restrained and unable to resist, these measures usually cease. According to policy, no further regional or national reviews were warranted, despite the continuous and intentional infliction of pain on a restrained inmate.

Upon receipt and review of the incident, the Office requested a regional review, which subsequently confirmed the initial institutional review that the intervention was indeed compliant with policy. Not satisfied with this response, I elevated this incident to the national level. After raising it with the Commissioner, she committed to reviewing the incident with members of her senior executive team. The police were contacted and the Region convened a formal investigation into this incident.

Subsequent to these measures, a CSC Security Bulletin was issued on March 26, 2020. It is entitled, *Inmates who have Secreted Contraband in their Mouth – Response Options*. The Bulletin is very detailed and includes this very explicit warning, in bold lettering, so as not to be missed:

**There are no approved force options for removing an item from an inmate’s mouth or body cavity.**



CSC officers applying “pain compliance” tactics

To the extent that these corrective and remedial measures address the specific issues of non-compliance in question I am satisfied. I am less satisfied that this case, including review by CSC's most senior executive members, did not prompt a more reflective consideration of concerns and questions that this incident raises beyond possible or different response options:

1. How could an incident of this seriousness be considered a Level 1 use of force, and therefore not required to be reviewed at regional or national levels? Are there other serious use of force incidents that fail to make their way up the chain of command? If so, how many?
2. Would the various pain compliance techniques used in the course of this incident, including their extended length, be considered excessive or otherwise contrary to any *lawful* purpose, regardless of context or setting?
3. What are the powers, limits or thresholds to the "preservation of life" or "preservation of evidence" defences that could possibly justify the use of pain compliance *in a correctional setting*?
4. Whether the eventual outcome of this incident could have reasonably been foreseen (overdose), which might obviate the need to use or apply extreme force in the first place?

The *Security Bulletin* effectively reduces the complexity of the scenario it is based on to a technical matter – it merely provides guidance on various response options that could/should be used to manage inmates who have secreted suspected contraband in their mouth. It is mostly silent on pain compliance; specifically, throat holds or application of pressure points to the jaw, or, for that matter, whether other techniques used in this incident (ankle torsions, standing on the back of an inmate's legs) are appropriate, safe and authorized for use in CSC facilities. The *Bulletin* avoids the more difficult and controversial questions regarding the extent or types of pain compliance that can be legitimately used in federal corrections, for what purpose(s) and for how long. It simply cannot be assumed or taken for granted that staff know or have the answers to these matters.

## Use of Stun Grenade

The second case involves the use of a stun grenade<sup>11</sup> detonated inside an inmate's cell following deployment of several kilograms of an irritant agent (pepper spray). In this case, the inmate had barricaded himself in his cell, he had shown threatening/aggressive behaviour towards staff, he was actively resistive, and responding officers could not get a visual and large quantities of pepper spray had already proven ineffective to gain compliance. The particular circumstances of this case justified an intervention. Officers were called to do a cell extraction. These facts are not in dispute.

The concern I have in this case is the decision to use a weapon of this explosive nature in the small confined space of a prison cell. This type of device should only be used in open areas: it is a defensive weapon that is used for crowd control. The manufacturer's manual specifies that it should not be used in a space where the device can detonate less than five feet from an individual (which is obviously the case in a cell) as it poses documented risks. The detonation of a flash bomb in a cell is unsafe and inherently dangerous; in fact, the grenade started a fire in the inmate's cell, possibly ignited by the flash or intensified by the previous deployment of pepper spray. Responding officers did not have a fire extinguisher on hand when they deployed the device. They also chose to restrain the inmate in his cell before putting out the fire.



Series of photos showing the fire caused by flash grenade detonated in the cell, and subsequent cell extraction

<sup>11</sup> A "stun grenade," also known as a flash grenade, flashbang, thunderflash, sound bomb or distraction grenade, is a [non-lethal explosive device](#), used to temporarily disorient a persons' senses. It is designed to produce a blinding flash of light and an intensely loud "bang." The flash momentarily blinds for approximately five seconds. The detonation causes temporary deafness and also loss of balance. Despite its nonlethal intentions, the resulting concussive blast still has the ability to cause injuries, and the heat created has been known to ignite flammable materials.

On the facts of the case, it was evident that I would issue a recommendation to prohibit the use of stun grenades in confined areas such as cells. Which is what I did. That was the obvious thing to do. Unfortunately, the response I received is far from clear; in fact, it is downright puzzling. It infers that CSC has not endorsed or accepted my recommendation, in all its simplicity. Instead, the Service intends to contact the manufacturer to query why this particular “distraction device” should not be used in an enclosed space. CSC reviewers also want to find out what caused the fire in the cell – the device’s ignitor or the particular brand, combination or concentration of the pepper spray?

With due respect, these points are irrelevant. They only serve to obstruct and detract from the issue at hand. A stun grenade is not a “distraction device,” and should not be used in small enclosed spaces because it is inherently unsafe and dangerous. Full stop. My recommendation stands.

- 6. I recommend that CSC issue immediate instruction prohibiting the use of stun grenades in closed or confined spaces, including cells.**

## 5. Dry Cells

Under section 51 of the *CCRA*, a Warden may authorize, in writing, use of a 'dry cell' (a specially equipped direct observation cell and facilities used to search for and retrieve suspected contraband from bodily waste) based on reasonable grounds to believe that an inmate has ingested or is concealing contraband in a body cavity. The Office investigated a case in which an inmate spent nine consecutive days in a dry cell. No drugs or any other contraband were found.

The conditions of dry cell confinement are, by far, the most degrading, austere and restrictive imaginable in federal corrections. The dry cell procedure requires strip-searching, around the clock direct observation and 24/7 illumination of the cell. Dry-celling imposes restrictions on any and all activity that would compromise the recovery of suspected contraband. The demands of staff are equally dignity depriving. Staff are required to observe and document the entire time that an inmate is on the toilet, write search and observation reports for every bowel movement, don protective equipment, search for contraband and hand over any seized item to a Security Intelligence Officer. It's an extraordinary procedure.

Much needed legal and national procedural safeguards for dry celling have been put in place since the Office first publicly raised this issue in its 2011-12 Annual Report. Some of these safeguards include:

1. Requirement to give written notice for reasons of placement.
2. Inmates are given the opportunity to retain and instruct legal counsel without delay.
3. Requirement to give notification to Health Services.
4. Daily review of placements by the Warden, including opportunity for an inmate to make written representations for consideration at the daily review.



A "dry cell" toilet

Notwithstanding, CSC has resisted placing any upper limit on how long a person can be held in a dry cell with no plumbing. In my opinion, beyond 72 hours there can be no further reason or justification to detain or keep a person in such depriving conditions. Staffing an observation post beyond that time seems equally pointless. After three days, surely this procedure becomes unreasonable, if not strictly punitive.

In this case, I was compelled to reissue a recommendation made by the Office nearly a decade ago, but to this day still has not been accepted or actioned:

- 7. I recommend that dry cell placements exceeding 72 hours be explicitly prohibited in federal corrections.**

## 6. Inmate Access to the Media

Through the reporting period the Office intervened in cases or complaints that involved inmate access to the media. In one case, we found that some of the policy criteria set out in Commissioner's Directive 022 – *Media Relations* to be unreasonable, irrelevant or not founded in law. In unreasonably denying or delaying an inmate's access to the media, the Service may be in violation of recognized democratic principles and constitutionally guaranteed rights. An incarcerated person does not forfeit the right to freedom of expression, and the wider public has a right to be informed of what goes on behind prison walls.

Restrictions on media access to prisoners, which in this case turned on unreasonable delays in approving media access to conduct an inmate interview during Fall 2019 National election period, must not unduly impede or infringe upon fundamental rights and democratic values. The well-recognized "caretaker" principle may apply to government bodies and employees, including CSC, during an election period, but there is no legal basis to muzzle, deny or justify restricting citizen access to the media, including those deprived of liberty.

In the course of our investigation, we found that CD-022 does not cite or refer to any of these legal, democratic or constitutionally protected rights and principles, which should be the touchstones for policy instruction in this area of corrections. The potential influence that a media interview could have on "how [inmates] conduct themselves and demonstrate respect for others" are an overreach of law, and cannot reasonably be considered relevant; in fact, it could be considered censorship. In a free and democratic society, behavioural expectations have no place in governing anyone's access to the media.

This is not to suggest that journalists have an immediate, unfettered or total access to interview inmates at any time. For instance, I accept that there are legitimate security reasons and operational constraints (especially for on-site camera interviews) that need to be considered, but these must be grounded in law, not how CSC thinks or expects an inmate to behave or out of concern with what s/he might say to the media.

In bringing this case forward, the Service agreed to review CD-022 and address the concerns noted above. Specifically, the Commissioner committed that the revised policy on media relations will acknowledge inmates' right to freedom of expression, in accordance with *the Canadian Charter of Rights and Freedoms*. It will also reaffirm that media interviews may proceed so long as they do not jeopardize the safety and security of the institution, other inmates, or any person. I was satisfied with this response and await promulgation of the revised Commissioner's Directive.



## 7. Edmonton Institution Update – Staff Discipline

On January 9, 2020, the Office requested all staff disciplinary investigations and measures related to the events involving repeated assaults on protective custody inmates that occurred at Edmonton Institution between August 1, 2018 and October 25, 2018.<sup>12</sup> This was a follow-up accountability measure arising from my investigation into these matters. The Office received and reviewed a total of ten staff disciplinary reports, as well as the *Disciplinary Investigation Report into Allegations of Negligence in the Performance of Duties during the Period of August 2018 to November 16, 2018* (dated February 4, 2019).

Of the ten CSC staff members investigated, six were subject to disciplinary measures, including financial reprimands and verbal/written reprimands. These reprimands primarily resulted from neglect of duty, failure to take appropriate action to ensure the safety and security of inmates and failure to appropriately document and report the incident. No one of a senior rank received a reprimand of any kind.



CCTV capture showing inmates throwing food at protected status inmates – Edmonton Institution

<sup>12</sup> For context and reference, see, *Dysfunction at Edmonton Institution*, 2018-19 Annual Report of the Office of the Correctional Investigator.

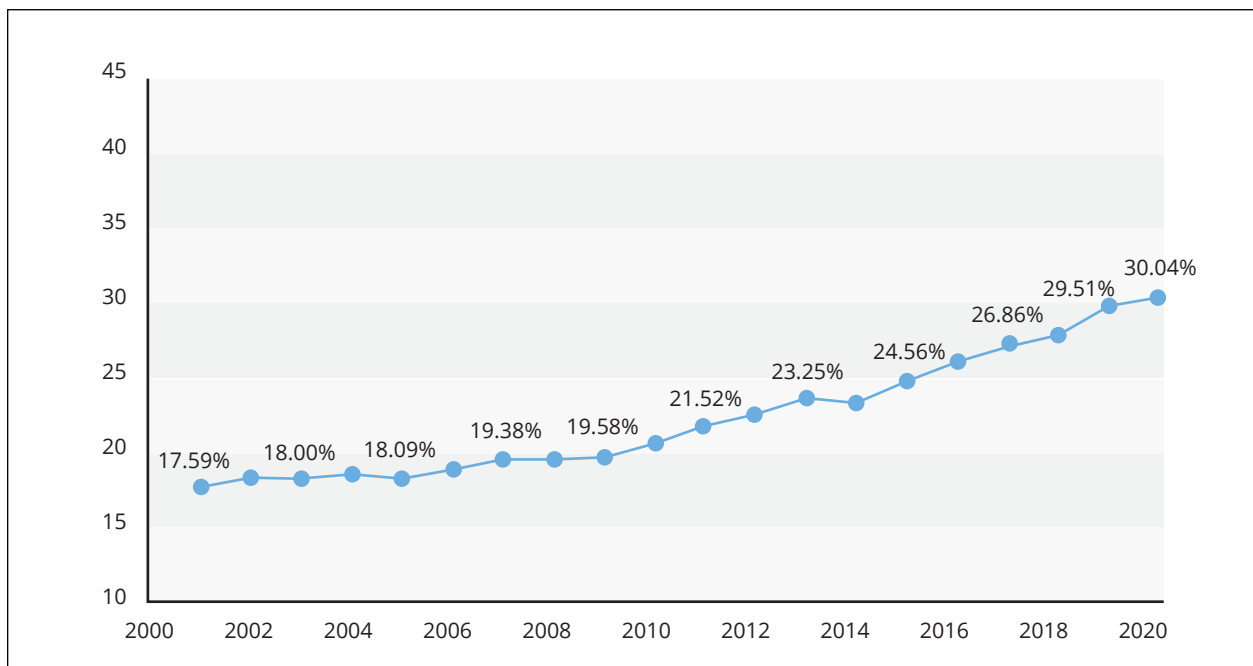


## 8. Indigenous Corrections – Update

In January 2020, I issued a press release and statement to record the fact that Indigenous over-representation in federal custody had reached a new historic high, surpassing the 30% mark.<sup>13</sup> While accounting for 5% of the general Canadian population, the number of federally sentenced Indigenous people has been steadily increasing for decades. More recently, custody rates for Indigenous people have accelerated, despite declines in the overall inmate population. As I indicated, these disturbing and entrenched imbalances represent a deepening “Indigenization” of the federal inmate population.

I recognize that many of the causes of Indigenous over-representation reside in factors beyond the criminal justice system. However, when I issued the statement, I noted that consistently poorer correctional outcomes for Indigenous offenders (e.g. more likely to be placed or classified as maximum security, more likely to be involved in use of force and self-injury incidents, less likely to be granted conditional release) suggests that federal corrections makes its own contribution to the problem of over-representation. For example, a recent national recidivism study shows that Indigenous people reoffend or are returned to custody at much higher levels, as high as 65% for Indigenous men in the Prairie region within five years of release. A higher rate of readmission to custody (revocations or reoffending) suggests shortcomings in the system’s capacity to prepare and assist Indigenous offenders to live a law-abiding life after release from custody.

### Federally Incarcerated Indigenous Population since 2001



<sup>13</sup> Overrepresentation is even higher for Indigenous women, who now account for 42% of the women inmate population in Canada.

In the coming year, my Office will be launching a series of in-depth investigations examining a selection of programs and services in CSC's Indigenous Continuum of Care. We want to hear from Indigenous inmates to learn from their experiences. We intend to look at program participation criteria and compare results and outcomes for those who are enrolled in Indigenous-specific interventions. The Office's review of Indigenous Corrections will also include a deeper probe of the over-involvement of Indigenous offenders in use of force incidents including comparative data and findings on the causes, frequency, type and severity of force used. Preliminary and previous work in this area (e.g. *An Investigation of the Treatment and Management of Chronic Self-Injury among Federally Sentenced Women*, September 2013) suggests that specific attention needs to be paid to the circumstances and social histories of Indigenous women, particularly those who present with serious mental health issues, as they appear to be vastly over-represented in use of force incidents among federally sentenced women.

## **NATIONAL INVESTIGATIONS**

1 // *A Culture of Silence*: National Investigation  
into Sexual Coercion and Violence  
in Federal Corrections

## Introduction

Sexual coercion and violence (SCV) is an issue that has notoriously existed in the shadows of society, and is among the most under-reported types of crimes. For example, among the general Canadian population, it has been estimated that only approximately 5% of all sexual assaults are reported to police.<sup>14</sup> Prison settings are by no means an exception to this reality. By their very nature, prisons are largely closed to public view. And it is in part due to this environment of secrecy that sexual violence in custodial settings is even less understood and even more susceptible to underreporting than in the community.

Much like any individual who has experienced sexual victimization, incarcerated individuals face a myriad of disincentives for reporting experiences of sexual violence. Many are afraid to report, fearing retaliation, retribution or re-victimization by the perpetrators, be it other inmates or staff. Furthermore, they face the risk of not being believed, being ridiculed, or even punished for reporting coerced sex. As has been observed in the wider community, most complaints of sexual violence that occur behind bars never reach the courts.

### WHAT IS SEXUAL COERCION AND VIOLENCE?

- It is any non-consensual act of a sexual nature, including pressure, and/or threats of such acts done by one person or a group of persons to another.
- It can range from unwanted sexual touching, kissing, or fondling to forced sexual intercourse. Sexual assault can involve the use of physical force, intimidation, coercion, or the abuse of a position of trust or authority.
- It includes any sexual act or act targeting a person's sexuality, gender identity or gender expression, whether the act is physical or psychological in nature that is committed, threatened or attempted against a person without the person's consent. It includes sexual assault, sexual harassment, stalking, indecent exposure, voyeurism and sexual exploitation.

**Source:** Definition is adapted from the definition included in *CSC's Guidelines on Responding to Sexual Assault*.

<sup>14</sup> Perreault, (2015). Criminal victimization in Canada, 2014. *Juristat*. Statistics Canada Catalogue 85-002-X.

It has been well established that institutional culture and leadership are key determining factors in creating environments that either prevent or permit sexual victimization. As the *U.S. National Prison Rape Commission* has recognised, prison-based sexual violence is not an intractable problem. The American experience attests that sexual violence behind bars is largely the result of correctional maladministration, deficient

policies, negligence and unsafe practices. Prison rape becomes endemic however, when correctional officials fail to take the problem seriously, when they do not institute proper detection, enforcement and preventive measures. In light of these realities, criminal justice agencies have the unique responsibility to ensure that there are mechanisms in place to prevent, track, and respond to incidents of sexual violence.

### WHO IS MOST AT RISK?

We know from international research that some of the most marginalized inmates are often the most vulnerable to sexual violence behind bars. These populations include the following:

- Individuals with a history of trauma and abuse;
- Individuals who identify as, or are perceived to be, lesbian, gay, bisexual or transgender;
- Young and juvenile individuals are at heightened risk;
- Women are more at risk of sexual victimization; and,
- Individuals who have a physical disability, mental illness, or cognitive/developmental issues.

For example, survey research on sexual victimization in U.S. prisons found that while 4% of prisoners overall reported having experienced sexual abuse in prison, the proportions were much higher for the most vulnerable populations. For example, the following groups reported experiencing SCV within the year prior to the survey:

- 6.3% of inmates with serious psychological distress.
- 12.2% of non-heterosexual inmates.
- 21% of non-heterosexual inmates with serious psychological distress.

**Sources:** Beck and Berzofsky, (2013). *Sexual Victimization in Prisons and Jails Reported by Inmates, 2011–12*. U.S. Department of Justice, Bureau of Justice Statistics: National Inmate Survey, 2011–12.

Office for Democratic Institutions and Human Rights (2019). *Preventing and Addressing Sexual and Gender-Based Violence in Places of Deprivation of Liberty: Standards, Approaches and Examples from the OSCE Region* (Warsaw, Poland).

## Sexual Coercion and Violence in Canadian Prisons

The issue of sexual violence in prison is rarely raised in Canadian public discourse. And while it is a problem most associated with American prisons, we know that sexual coercion and violence occurs in custodial settings in Canada. The extent of the problem in Canada however is largely unknown. There are currently no reviews, studies, reports or academic literature examining the scope of this issue in Canada.

At present, Canada does not have an equivalent to the United States' *Prison Rape Elimination Act* (PREA), nor are there any mandatory public reporting requirements in place to respond to sexual abuse and violence behind bars in Canada. While there is a complex array of policy, administrative and legal measures to address these issues, there is no overall strategy that specifically and intentionally aims to prevent sexual violence in Canadian federal penitentiaries. For this and other reasons, the extent or prevalence of the problem in Canadian federal corrections is simply not known.

That said, we know that a considerable portion of the Canadian inmate population self-reports engaging in sexual activity while incarcerated. For example, a 2007 National Inmate Survey conducted by the Correctional Service of Canada (CSC) reported that 17% of incarcerated males and 31% of women self-reported engaging in sexual activity while in prison.<sup>15</sup> Unlike surveys conducted by the U.S. Bureau of Justice Statistics, Canadian inmate surveys have not focused on whether or not sexual acts among inmates were consensual or coerced.

In November of 2018, *The Edmonton Journal* published an article on sexual assault in Canadian prisons.<sup>16</sup> Their findings suggested that both federal and provincial correctional systems alike have fallen disappointingly short in their methods of tracking incidents of sexual assault involving incarcerated individuals. It appears that while some provincial jurisdictions suffer from disjointed information systems and inconsistent record keeping (some jurisdictions only track cases of sexual assault where charges were officially laid), others simply do not appear to track allegations of sexual assault at all.

As for the federal correctional system, the situation does not appear to be much better. According to the same article, between 2013 and 2018, CSC was able to identify a total of 48 formal allegations of sexual assault from federal inmates (17 of these were from 2017-18 alone). While this is not an insignificant number on its own, the actual number of inmates who would have experienced SCV during this time is undoubtedly much higher.

At present, there is no way to accurately and systematically identify the number of incidents of sexual coercion and violence involving incarcerated persons, and there is no credible data or research that indicates the scope of the problem of sexual victimization in Canadian penitentiaries. Without proper reporting mechanisms, record keeping, and research, CSC runs the risk of using this absence of evidence as evidence of the absence of a problem. Turning a blind eye to this issue or looking the other way when it happens only serves to reinforce a culture of silence and indifference.

<sup>15</sup> Zakaria, Thompson, Jarvis, and Borgatta, (2010). *Summary of emerging findings from the 2007 national inmate infectious diseases and risk-behaviours survey*. Correctional Service of Canada.

<sup>16</sup> Wakefield, (2018, November 7). [Alberta prisoners made 67 allegations of sexual assault in the last five fiscal years; Only one resulted in a criminal charge](#). *The Edmonton Journal*.

## PRISON RAPE ELIMINATION ACT (PREA)

After decades of pressure from advocates and survivors, in 2003, the United States congress passed the *Prison Rape Elimination Act* (PREA), the intentions of which were to “provide for the analysis of the incidence and effects of prison rape in Federal, State, and local institutions and to provide information, resources, recommendations and funding to protect individuals from prison rape.”

The purpose of PREA was to develop national standards on the prevention of sexual assault in custodial settings. Furthermore, this law called for the Department of Justice’s Bureau of Justice Statistics (BJS) to conduct regular anonymous surveys of inmates regarding sexual assault. It resulted in the creation of such bodies as the *National Prison Rape Elimination Commission*, responsible for developing standards for the elimination of prison rape, as well as the *National PREA Resource Centre* that provides training and technical assistance to those working in the corrections field.

In 2012, the U.S. Department of Justice issued the *National Standards to Prevent, Detect, and Respond to Prison Rape*. Further to these standards, correctional institutions are required to educate both staff and inmates on sexual victimization, investigate all allegations of sexual assault, track all incident information in the *Survey of Sexual Victimization* and disclose information to all relevant authorities.

This law has prompted numerous national studies on prison sexual assault in the U.S., advancing knowledge and practice on:

- estimating the prevalence of sexual violence in prison settings;
- understanding and changing the dynamics of sexual abuse in prison settings;
- identifying victim and perpetrator profiles/characteristics;
- regularizing the reporting of incidents and investigations of sexual assault; and,
- developing training and prevention initiatives in custodial environments.

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**Sources:** *Prison Rape Elimination Act* (2003). PREA Resource Centre.

McFarlane and Lerner-Kinglake, (2016). *The Prison Rape Elimination Act and beyond: Sexual violence in detention*. Penal Reform International.

Rantala, (2018). *Sexual victimization reported by adult correctional authorities, 2012-15*. U.S. Department of Justice, Bureau of Justice Statistics.



## Context and Purpose

Addressing sexual violence in prison is as much an issue of upholding long-standing rules of safety and law, as it is one of advancing human rights in the current cultural climate. In many ways, Canadian corrections currently finds itself where the United States was prior to enacting PREA legislation – with an abundance of anecdotal evidence of individual experiences of sexual abuse in the prison system, but very little concrete data to demonstrate the dynamics of (and identify possible solutions to) what many knew to be a systemic issue.

Now more than ever, particularly in the context of social movements such as #MeToo and #TimesUp, Canada is behind when it comes to addressing sexual violence behind bars. This Office is breaking new ground by taking the first-ever systemic look at the long-ignored issue of sexual coercion and violence in Canadian federal prisons. The Office's intentions through this investigation are to:

- examine policies and practices currently in place in federal corrections in Canada for detecting, tracking, responding to, and preventing SCV in federal penitentiaries;
- identify gaps and opportunities for improvement to relevant policy and practice;
- highlight promising approaches that could serve to advance policy and practices aimed at responding to and preventing prison sexual violence;
- offer evidence-based recommendations to support progress in this area; and,
- importantly, give voice to the individuals and survivors of sexual violence in prison, who too often go unheard.

## Methodology

The methods for the present investigation consisted of three main components:

### 1. Examination of CSC Policies, Procedures & Research on SCV

A review and analysis was conducted of CSC documentation, policies, procedures, and directives outlining responsibilities and actions required when an alleged incident of sexual assault, involving federally-incarcerated individuals, is reported. All research, reviews and reports conducted by CSC on this topic were also sought for review and analysis.

### 2. Analysis of CSC Official Incident Reports and Investigations of SCV Involving Incarcerated Individuals

A review and analysis of the last five years (from April 2014 to April 2019) of CSC's documentation and data associated with officially reported allegations of incidents of SCV involving federally-incarcerated individuals. Specifically, the following two sources of data were sought and analyzed:

- i. **Incident Reports:** All Incident Reports in CSC's Offender Management System (OMS) that were created further to the official reporting of an alleged incident of SCV involving a federally-incarcerated person<sup>17</sup>; and,

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<sup>17</sup> All Incident Reports with the subcategory designated as "sexual assault" were selected for inclusion in the analysis.

ii. **Board of Investigation Reports (BoI):** All CSC incidents for which a BoI was convened for incidents identified as involving SCV and federally-incarcerated persons.<sup>18</sup> These internal investigations, convened or conducted at the local (institutional) or national levels, represent a subset of all incidents, likely those deemed to be more severe in nature or consequence.

### 3. Interviews with CSC Staff and Federally-Incarcerated Persons

In an effort to better understand the scope and dynamics of SCV in federal penitentiaries, what strategies are in place to prevent and respond to incidents, and identify areas for improvement, interviews with CSC staff and inmates were conducted.

i. **Staff Interviews:** A variety of CSC staff were selected for interview based on their identified role in policy as part of the chain of responsibility when incidents of SCV arise (e.g., Chiefs of Health Care, security and operations staff, correctional managers). Where possible, staff who hold positions of trust with the inmate population (e.g., Chaplains, Elders), were also sought for an interview.

ii. **Inmate Interviews:** There are many practical and ethical challenges with attempting to solicit interviews with victims and perpetrators of SCV. In an effort to mitigate the potential risks associated with interviewing individuals who may have experienced SCV (directly or indirectly), voluntary interviews with representatives of the incarcerated population were conducted. Specifically, individuals holding positions such as Inmate Welfare Committee Chairs and *representatives*, Peer Counselors/Advocates, Peer Health Ambassadors, and Unit/House Representatives were invited to discuss the dynamics of SCV in CSC institutions.

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<sup>18</sup> All BoI reports were provided by CSC's Incident and Investigations Branch (IIB). The Office relied on IIB to identify reports that met the criteria for inclusion in the investigation. It should be noted here that OMS-generated Incident Reports contain limited details on incidents or demographic information on the individuals alleged to have been involved. The BoI reports were therefore relied on for more detailed, qualitative information.

## Findings: Examination of CSC Policies, Procedures & Research on SCV

As with any type of criminal activity, when an incident of sexual assault is reported to CSC staff, it should immediately trigger procedures for reporting, investigating, and addressing the needs of those involved in the incident. Depending on the type, severity, frequency, and/or implications of the incident, outside agencies (e.g., police) may become involved and the incident may be subject to a Board of Investigation (BoI) led by the Incident and Investigations Branch at CSC's national headquarters.

At present, CSC does not have a separate or specific Commissioner's Directive (CD) or policy suite specifically detailing how CSC staff are expected to respond when a sexual assault is reported (or suspected to have taken place) in a federal institution. CSC policies and procedures for how to respond to alleged incidents of SCV are subsumed within directives and guidelines for general health emergencies, security incidents, and violations of the law by inmates.

Currently, there are only two sources of information that provide guidance to CSC staff on how to respond *specifically* when a sexual assault is reported by an inmate:

1. **What to Do if an Inmate is Sexually Assaulted** is a single page on CSC's internal website in the Health Services section. It provides basic information, with a focus on reporting procedures and the collection of evidence for investigative purposes.
2. **Sexually Transmitted Infections Guidelines – Appendix 7: Response to Alleged Sexual Assault** is an appended document, directed almost exclusively at Health Services staff. This document is three pages in length, providing basic information on how nursing staff should collect and preserve physical evidence, offer nursing interventions to inmates, and report the incident to the internal authorities. It is the Office's understanding that these Guidelines are currently under revision; however, their status or when they will be promulgated is unknown.<sup>19</sup>

It appears from a review of the above documentation that the Health Services sector is mostly responsible for managing incidents of sexual assault. However, given the uniquely complex criminal nature of these incidents, expedient and effective coordination with various CSC sectors (e.g., health, security and correctional management) and outside agencies (e.g., police, RCMP) would be required to appropriately respond to and investigate these incidents. Taking into account the brevity and lack of clarity of policy instruction on how staff should respond to these incidents, this Office's main concerns are as follows:

<sup>19</sup> This Office provided comments on the revised Guidelines in December 2019. CSC has not provided a specific response to the Office's comments.

- The inaccessibility of the current guidelines/ documentation. The guidelines that exist are buried in the seventh appendix of CSC's guidelines on sexually transmitted infections. The placement of these guidelines makes them less accessible to staff, thus less likely to be used by staff.
- The shallow nature of the current guidelines. They lack detail, clarity on the roles and responsibilities of all staff in terms of timelines, the types of services that should be offered and timelines for these services (particularly for mental health). Furthermore, there are no clear guidelines on what should be done to keep victims (and perpetrators) safe once an allegation of sexual assault is reported.
- There is no mention of the procedures that should be followed when staff are implicated in allegations of sexual assault, aside from a brief mention in CD-060 *Code of Discipline* which indicates that institutional heads must notify local police, without delay, if staff are implicated in incidents or allegations of misconduct that constitute a criminal offence.

Taken together, of greatest concern to this Office is the absence of a dedicated and comprehensive policy suite for sexual coercion and violence involving federally-sentenced individuals.

8. **I recommend that the Service develop a separate and specific Commissioner's Directive for incidents of sexual coercion and violence involving federal inmates, that describes in detail how *all* staff should respond when allegations of a sexual assault are made, or an incident is suspected of having occurred. This policy suite should also detail mechanisms for detecting, tracking, reporting, investigating and preventing such incidents. CSC should look to other jurisdictions who have developed comprehensive approaches to policy and practice (e.g., *Prison Rape Elimination Act*) as it relates to sexual assaults involving incarcerated persons.**

## NATIONAL INMATE SURVEY ON SEXUAL COERCION & VIOLENCE IN CSC INSTITUTIONS

Through the course of this investigation, the Office learned that while CSC has conducted numerous national inmate surveys on various topics in the past, including the sexual activity of inmates, it has never conducted research on sexual violence in prison. It is in large part for this reason that the extent and prevalence of sexual coercion and violence in federal prisons in Canada is currently unknown.

Last year, the Office became aware that CSC was in the process of developing a national health survey of federal inmates, including a section on sexual health. In October 2019, through correspondence with CSC Health Services at National Headquarters, the Office learned that the draft survey instrument included a question on sexual assault. Specifically, the question read as follows:

**In the last 6 months in prison, were you ever forced to have sex (oral, vaginal, or anal) when you didn't want to? (Answer: Yes/No)**

In context of the investigation underway, the Office offered advice and comments to CSC on how to revise the existing question (e.g., include a longer time period than 6 months) and suggested the addition of other questions about sexual coercion in an effort to improve the quality and accuracy of the survey, as well as attempt to estimate the prevalence of sexual coercion and violence.

After numerous attempts to obtain a complete draft of the survey, on January 31<sup>st</sup>, 2020, at the direction of the Commissioner, the Office was finally provided a copy. Upon review of the survey, it was apparent that not only were new questions not added, but that CSC *removed* the only question pertaining to sexual coercion and violence from the survey.

Given the clear need to gain a better understanding of the scope and nature of sexual coercion and violence in federal prisons, coupled with the Service's demonstrable failure and unwillingness to conduct such work:

9. I recommend the Minister of Public Safety directs that CSC designate funds for a national prevalence study of sexual coercion and violence involving inmates in federal corrections. The survey should be developed, conducted, and the results publicly reported on, by external, fully independent experts, with the experience and capacity to conduct research on this topic in a correctional setting.

## Findings: Analysis of CSC Official Incident Reports and Boards of Investigation (BoI) Reports of SCV Involving Incarcerated Individuals

In accordance with CSC policy, in the event of an incident (such as an alleged sexual assault), staff are required to record and report incident details in documents such as Statement/Observation Reports, which are in turn used to inform Incident Reports that are created and filed in CSC's OMS. Incident Reports are usually completed by institutional heads, and can be used as background information in the event a BoI is convened further to the incident in question.<sup>20</sup>

Depending on the severity, possible consequences, frequency and type of incident, the reporting of incidents can result in a formal BoI (at the national or local level) by CSC's Incident and Investigations Branch (IIB).<sup>21</sup> According to CSC, the purpose of a BoI is to assess and report on the circumstance surrounding the incident; provide information to CSC in order to prevent similar incidents; learn and share best practices; and, issue findings and recommendations.<sup>22</sup> For incidents where the behaviour of staff is under investigation, a disciplinary investigation and possible sanctions are determined by a separate CSC authority, and are subject to the Complaints and Grievance process.

In the absence of national prevalence data, or any specific data sources that track incidents of sexual coercion and violence, for the present investigation, all Incident Reports and BoI Reports from five years of incidents of sexual violence involving an inmate were included. Our search yielded a total of 72 unique incidents of sexual coercion and violence that were officially reported or investigated by CSC from April 2014 to 2019.<sup>23</sup> The following section is a summary of the findings from the analysis of CSC Incident (OMS) report data and Investigation (BoI) reports.

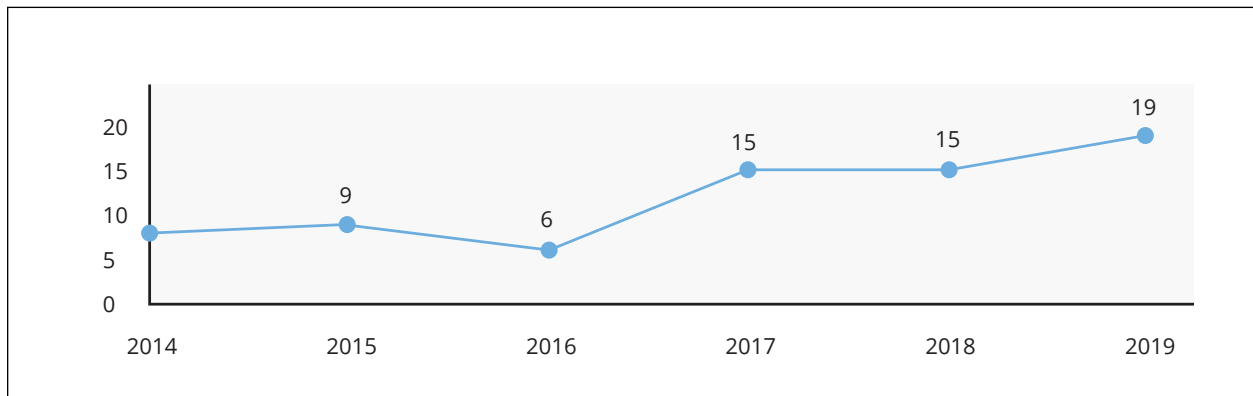
<sup>20</sup> Correctional Service of Canada. Procedures when an incident occurs. CSC Intranet: HUB. Retrieved April 1, 2020.

<sup>21</sup> The decision to convene a BoI is at the discretion of the Commissioner, Director General of IIB, or the institutional head. BoI often involve site visits, interviews with implicated parties (including staff), and require the production of a detailed investigation report.

<sup>22</sup> Correctional Service of Canada. About Incident Investigations. CSC Intranet: HUB. Retrieved April 1, 2020.

<sup>23</sup> There were 67 Incident Reports and 23 BoI Reports. For five of the BoI, we could not find a corresponding Incident Report; therefore, we estimate the total number of incidents of sexual violence to be 72.

## Number of Officially Reported SCV Incidents from 2014 to 2019



### A. Incident Reports

From April 2014 to 2019, there was a total of 67 Incident Reports of sexual assaults involving a federal inmate. Over time, the number of reported incidents has been increasing, with nearly 30% of all cases having occurred in 2019.

#### *Where did Most Reported Incidents of SCV Take Place?*

There was a total of 22 different institutions that had at least one allegation of sexual assault involving an inmate during the period under investigation. Based on the Incident Reports, we were able to identify which institutions had the most reported cases. The top three institutions were: 1) Warkworth Institution; 2) Bath Institution; and, 3) Fraser Valley Institution.<sup>24</sup> Overall, incidents were mostly reported from medium security (42%) or multi-level security (39%) institutions. Only eight incidents were reported from maximum security institutions. This could be attributable to a variety of reasons. It is possible that maximum security settings have a lower *incidence* of this type of offence as a consequence of greater restriction on inmate movement in these facilities. It could also, or instead, be due to a lower frequency of *reporting*

of these types of incidents in maximum security settings. For example, these inmates may be less likely to report sexual assault given the greater (actual or perceived) risks and disincentives associated with reporting in this context, compared to lower security institutional settings; if this is the case, these results are demonstrative of a greater underestimate of SCV incidents for maximum security institutions. Without reliable national statistics however, it is not possible to determine the factors that explain these findings.

<sup>24</sup> The top three institutions among cases that resulted in a BoI were: 1) Fraser Valley Institution for Women, 2) Drumheller, and 3) Saskatchewan Penitentiary.

*Who Tends to be Involved in Incidents of SCV?*

Further to the analysis of the Incident Reports, we were able to determine that there was a total of 73 unique victims and 66 unique instigators/perpetrators. The vast majority of cases (85%) involved inmate-on-inmate incidents, whereas 12% involved inmate-on-staff incidents and one incident was staff-on-inmate.<sup>25</sup>

The majority of incidents were reported from men's institutions; however, while women only account for approximately 5% of the incarcerated population, one-third (33%) of all reported incidents of sexual assault were from women's institutions. This is consistent with findings from the broader literature on sexual assault, that women are more likely to report sexual assault to authorities than men. This however makes it difficult to determine whether the large proportion of incidents reported from women's institutions suggests that there are more incidents of SCV in women's institutions or whether women tend to report these incidents more when they do occur. Once again, national prevalence statistics would provide insights into the source of this difference.

*What Types of Incidents Occurred and How Were They Dealt With?*

Based on the information that was provided in the Incident Reports, more than half of cases (54%) were classified as unwanted sexual touching or groping, and at least 10.5% involved forced oral and/or penetrative sex.<sup>26</sup> In 10% of cases, there was information indicating that the victims were double-bunked with the alleged perpetrator at the time of the incident. It is likely that the actual number is considerably higher, as the element of double-bunking was not consistently reported.

Based on available information, it is estimated that perpetrators were placed in segregation as a result of the alleged incident in 40% of cases and 10% of victims were also segregated. In nearly all cases (90%), there was indication that the police were contacted; however, charges were laid/pursued in only 12% of cases. The most common reason noted for charges not being pursued was that victims chose not to pursue charges further.

<sup>25</sup> Incidents involving staff are dealt with as disciplinary incidents or grievances that are recorded/reported through a different mechanism than the incident reports used for the present analysis.

<sup>26</sup> 43% of cases indicated that a "sexual assault" had been alleged to have occurred, with no further information; and, 16% of cases indicated that they involved unwanted sexual pressures.



## B. Boards of Investigation (BoI) Reports

Of the 72 incidents of SCV that were reported during the five years, a BoI was convened for less than one-third of all reported incidents (i.e., a total of 23 incidents). It is worth noting that, given the criteria for a BoI, incidents for which a BoI was convened likely represent the most egregious cases of SCV and are therefore possibly not representative of the most common types of SCV incidents that occur.

The 23 BoI reports investigated 33 separate incidents (e.g., one BoI had four separate victims/incidents), involving 32 unique victims and 24 unique perpetrators. Perhaps indicative of severity, the majority (82%) of investigations were National investigations (only two were conducted locally or at the Institutional level).<sup>27</sup>

As was observed from the Incident Report data, most of the incidents subject to a BoI took place at medium security facilities (60.6%), followed by those from maximum security (21.2%). All but one incident involved inmate-on-inmate sexual assaults; only one case involved a staff-on-inmate sexual assault.<sup>28</sup> Nearly half of incidents involved multiple victims (46%) ranging from two to six victims. In more than half of cases (58%), there was more than one incident of sexual assault that was reported to have taken place. These findings suggest that in many instances, incidents of SCV are not single, isolated events; rather, consistent with the literature, perpetrators and victims are at a heightened risk of being re-involved/re-victimized in the future.

## What are the Characteristics of Victims and Perpetrators of SCV Incidents?

Based on the most consistently available demographic information in the BoI reports, it was possible to develop a profile of the victim and perpetrator samples.<sup>29</sup> The majority of the victims and perpetrators were males, classified in medium security (see Table 1).

Consistent with the broader literature on sexual violence, victims were found to be more vulnerable than perpetrators on a variety of factors. On average, victims were found to be:

- younger than perpetrators (34.2 vs. 42.3 years old, respectively);
- serving shorter sentences than perpetrators (8.1 years vs. 15.3 years, respectively);
- more likely to be serving their first federal sentence than perpetrators (69% vs. 30.3% were first time federal offenders);
- more likely to have serious mental health concerns (60.6% vs. 45.5% of perpetrators) and/or cognitive impairments/delays (25% vs. 18%);
- less likely to be classified a Dangerous Offender (9% vs. 18.2%);
- less likely to be serving a life sentence (6 victims vs. 15 perpetrators); and,
- less likely to have a history of perpetrating sexual assault (33.3% vs. 42.4%).

<sup>27</sup> Local investigations are convened by institutional heads under Sections, 19, 97, or 98 of the *Corrections and Conditional Release Act* (CCRA). National Tier I investigations are convened by the Commissioner under Sections 19 and/or 20 of the CCRA to investigate matters relating to the operation of CSC and normally include a community board member. National Tier II investigations can be convened by the director general of Incident Investigations under Section 19, 97, and/or 98 of the CCRA. These investigations may include a community member on the board.

<sup>28</sup> Incidents involving staff are often dealt with through the Grievance and Complaints process, rather than incident investigations.

<sup>29</sup> A detailed coding form was developed to reliably code incident, victim, perpetrator, and investigation characteristics for all BoI reports.

### 2SLGBTQQIA+

Overall, there was a large proportion of 2SLGBTQQIA+ individuals among both victims and perpetrators.<sup>30</sup> Specifically, there was evidence to determine that at least one-third of perpetrators and 15% of victims identified as 2SLGBTQQIA+. While it was less frequently reported, at least 12% and 18.2% of the victim and perpetrator samples respectively identified as transgender individuals. Consistent with the research on sexual violence, individuals from the 2SLGBTQQIA+ community are over-represented, particularly as victims of sexual crimes. This clearly demonstrates a need for prevention efforts to protect specific groups of incarcerated individuals who are known to be vulnerable to SCV. As with other factors, it is possible that the proportion of 2SLGBTQQIA+ individuals involved in cases of SCV is even higher than what we observed from the Bol reports, as gender identity/expression information was not systematically reported.

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<sup>30</sup> 2SLGBTQQIA+ = Two-Spirit, Lesbian, Gay, Bisexual, Transgender, Queer, Questioning, Intersex, Asexual, Plus others.

**Table 1. BoI Analysis – Victim and Perpetrator Profiles**

	VICTIMS	PERPETRATORS
<b>AVERAGE AGE</b>	34.2	42.3
<b>GENDER %</b>		
Male	64	70
Female	33	21
Other	3	9
<b>ETHNICITY %</b>		
White/Caucasian	60.6	27.3
Indigenous	30.3	45.4
Black	0	9
Other	0	6
Not reported	9	9
<b>SECURITY CLASSIFICATION %</b>		
Minimum	6	3
Medium	67	69.7
Maximum	21	21.2
<b>AVERAGE SENTENCE LENGTH (YEARS)</b>	8.1	15.3
<b>FIRST TIME FEDERAL OFFENDER %</b>	69	30.3
<b>MOST SERIOUS INDEX OFFENSE %</b>		
Sexual	36.4	24
Murder	18.2	21
Violent	–	40
<b>DANGEROUS OFFENDER %</b>	9	18.2
<b>2SLGBTQIA+ %</b>	15.2	33.3
Transgender %	12	18.2
<b>SERIOUS MENTAL HEALTH CONCERNS %</b>	60.6	45.5
<b>COGNITIVE IMPAIRMENTS/DELAYS %</b>	25	18
<b>HISTORY OF PERPETRATION OF SEXUAL ASSAULT %</b>	33.3	42.4
<b>HISTORY OF SEXUAL ASSAULT VICTIMIZATION %</b>	21.2	18

*Note:* Percentages may not add up to one hundred, as information was not reported in some cases.

### *History of sexual violence*

A large proportion of alleged perpetrators (42.4%) had a history of previously committing sexual assault. More importantly – approximately 50% of perpetrators had a history of perpetrating sexual assault while incarcerated. It should be noted that one-third of victims also had a history of perpetrating sexual offences. While both groups had similar rates of having a history of sexual assault victimization (21.2% and 18%), these factors were infrequently reported, and therefore likely underestimates the actual victimization rates in both groups. Clearly, individuals with a history of sexually offending in the prison setting are at an increased risk of committing such offences in the future.

### *What Types of Incidents were Investigated by Bol?*

Given the criteria for a Bol, it was expected that incidents in this sample would represent the most severe cases. Based on our review, Bol reports involved a combination of different types of behaviour:

- 63% of cases involved unwanted sexual verbal pressures or advances by another inmate.
- 51.5% of cases involved unwanted sexual touching/groping by another inmate.
- One-third of cases involved forced penetrative intercourse by one inmate to another.
- Nearly a quarter of incidents involved forced oral sex by one inmate to another.
- 36.4% of cases involved “other” forms of sexual violence.<sup>31</sup>

Incidents most commonly took place in the victim’s cell (21.2% of cases), otherwise were equally likely to have occurred in the perpetrator’s cell or a common area. It was reported that in at least 12% of incidents, the victim and perpetrator were double-bunked together.

While more difficult to ascertain, the “motivation” for the assaults were described in one-third of the incidents. Such motivations included:

- Sex in exchange for goods and/or paying off debts.
- Deviant sexual gratification (e.g., chronic groping).
- Seemingly “consensual relationships” that became abusive (e.g., in 18.2% of cases, there was evidence to suggest the victim and perpetrator had been in a romantic relationship at the time of, or prior to, the incident under investigation).
- Punishment for the victim’s own sexual offences.
- “Horseplay” that went too far (as described by the CSC investigators and staff).
- Blackmail, rage and/or jealousy.

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<sup>31</sup> The “other” types of SCV include: forced masturbation, invitation to sexual touching, sexual interference involving objects.

## Major Issues that Emerged from Bol Reports

In addition to quantifiable information and characteristics of the individuals and incidents, the Bol reports provided the opportunity to identify systemic issues surrounding or highlighted by each case, either through the findings and recommendations offered by the Bol themselves, or through our own analysis of the sample. Some of the key issues are as follows:

### *Inaccessibility and Lack of Staff Knowledge on CSC Policy*

One of the most common findings from the Bol was the inaccessibility of the existing guidelines, and relatedly, the lack of staff knowledge on how to respond to incidents of SCV. For example, among the most frequent concerns raised in the Bol reports was that staff had never seen *Appendix 7- Response to an Alleged Sexual Assault*. As one report put it:

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...placement within a Health Care specific guideline makes it difficult for front line staff to be aware of, or to locate it. If Appendix 7- Response to an Alleged Sexual Assault or an edited version of the document were more readily available to front line staff, it would assist in assuring a timely, appropriate and integrated response from both operational and Health Services staff when allegations of sexual assault are made.

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Nearly one-third of all of the formal recommendations issued by the Bol from April 2014 onward recommend making the existing guidelines more accessible and/or that reminders be issued as to where this information could be found. More specifically, this recommendation was made six different times in Bol reports between 2014 and 2018. It is clear that CSC needs to provide more, accessible policy instruction to better equip staff to respond to incidents of this nature in a timely and effective manner.

### *Processes for Responding to Incidents Varied by Institution*

One of the benefits of conducting a targeted review of a specific type of incident, such as this, is that it allows for a systemic comparison of responses to these incidents across sites and over time. It was clear through this component of the investigation that institutions varied *considerably* in how they responded to incidents of SCV when they came forward. This is likely in large part a consequence of the guidelines being buried in the appendix of health care policy. There was very little consistency in responses to incidents, possibly with the exception that police were called in nearly all (94%) of cases.

Variation existed however for most other procedures and responses including timeframes for reporting, who (at the institution) was notified of incidents, when police were contacted, how victims and perpetrators were dealt with, and what services were offered to victims and perpetrators. These findings serve to further emphasize the need for a comprehensive, detailed and accessible policy on responding to incidents of SCV. Furthermore, it suggests that CSC should consider taking an additional systemic approach to investigating incidents of this nature, rather than only examining them individually or in isolation from one another. Looking at individual cases in a vacuum results in the problem of *not seeing the forest for the trees*. Taking a systemic approach however, would enable the identification of trends, gaps, and possibly even promising practices.

### *Delays in Reporting Incidents to Authorities*

Our analysis revealed numerous instances in which there were delays in reporting incidents to authorities after staff were made aware of allegations. In many of these cases, delays in reporting incidents were as a result of the institution attempting to deal with the issue internally, or attempting to “substantiate” the claim of SCV themselves. In more than one-quarter of cases, staff delays in reporting the incident to higher institutional or regional authorities or police were because the victim was initially not believed.

Timely responses to incidents of sexual assault are essential, most importantly for the safety of all individuals involved. Furthermore, delays in reporting can compromise the ability of police and other authorities to properly investigate the incident in question. In some cases, it was noted that institutional delays in reporting directly resulted in the loss of important evidence (e.g., forensic/physical evidence, memory recall) or victims and/or witnesses changed their minds in terms of their willingness to pursue charges or speak to police. In one-third of cases, victims were not provided medical services/assessments within an acceptable (i.e., “immediate”) timeframe, as described in CSC’s Health Services policy. All allegations of sexual assault need to be treated not only as a medical emergency, but as *credible* until determined to be otherwise through the formal course of police investigation.

### **CASE STUDY: VULNERABLE INMATES AND HIGH RISK SEXUAL OFFENDERS**

A National Board of Investigation into a sexual assault at a medium security men’s institution recommended that the regional authority conduct a review of the population management strategy in that institution, given the uniquely large number of vulnerable inmates (e.g., elderly, mental health issues, physical disabilities, etc.) and high risk sex offenders at that institution (due to the High Intensity Sex Offender Program offered at that institution).

The region rejected the recommendation on the premise that: 1) it was not believed that incidents of sexual assault were related to having high risk sex offenders and vulnerable inmates in close proximity; and, 2) their belief that this institution does not have many of these incidents. Furthermore, they indicated that institutional dynamic security practices would be sufficient to ensure the safety of those who are vulnerable.

Since this BoI was conducted, there have been at least 7 reported incidents of sexual violence at this institution alone. Moreover, this institution finds itself in the top three institutions with the most incidents of SCV among all CSC facilities. This case exemplifies CSC’s unwillingness to self-reflect even when faced with evidence of a problem; an aversion to considering proactive (or even reactive) measures to protecting their most vulnerable; failures to implement sensible recommendations, even those offered internally; and, turning a blind eye to the issue of sexual violence in their institutions.



### *Lack of Proactive Prevention Efforts, Particularly for the Protection of Vulnerable Populations*

Consistent with the wider literature on sexual violence, it is clear from the profile of the victims that the vast majority had characteristics that could put them at a heightened risk for sexual victimization (e.g., mental health issues, history of victimization, gender identity or expression). While CSC has screening criteria, classification, and risk assessment procedures that should guide staff in making safe housing and living assignments, it was observed that in many cases, vulnerable inmates were placed in close proximity or accessible by individuals who posed a high risk for sexually predatory behaviour. As is illustrated in the case study above, CSC has not implemented recommendations, undertaken sensible policy reforms, nor implemented practices that are aimed at keeping the most vulnerable victims safe from SCV. Relying on the general notion of “dynamic security” is simply not enough. An issue that was further confirmed through our interviews with staff and inmates, is that CSC does not have a specific preventative strategy for incidents of sexual coercion and violence, particularly for those who are most vulnerable.

10. I recommend that the Service develop an evidence-based strategy for the prevention of sexual coercion and violence involving individuals who are incarcerated, with specific attention to individuals or groups who are known to be at a heightened risk of victimization.

### *Poor Identification and Tracking/Flagging of Perpetrators*

Based on the profile of perpetrators, a large portion have a history of sexual offending in general, as well as committing institutional SCV. In spite of this, CSC appears to have no specific approach to identifying, flagging, tracking and/or managing perpetrators of institutional SCV, and of particular concern, repeat/chronic perpetrators.<sup>32</sup> Based on our review of the Bol reports, in some cases, alleged perpetrators were simply shuffled around the institution or transferred to different institutions with little other meaningful intervention to prevent future incidents. Specifically, in 42% of cases, perpetrators were involuntarily transferred to a different institution; however, in only one of these cases was there indication that the receiving institution was given information regarding the specific reason why the inmate was being transferred, and the potential risk he posed to the institutional population. Three separate Bol made recommendations regarding the need for better mechanisms for alerts in OMS, and yet, improvements have not been made in this regard.

11. I recommend that, in the interest of staff and inmate safety, CSC develop a specific flag in OMS for perpetrators of institutional SCV and use this to inform population management strategies in order to mitigate potential risks and to keep vulnerable individuals (inmates and staff alike) safe.

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<sup>32</sup> CSC has a "Predatory Behaviour" alert in OMS; however, this alert is used for a wide variety of behaviours, not specific to sexual violence.

### *Unfulfilled Mandate of Boards of Investigation*

In addition to the issues that emerged regarding institutional responses to incidents of SCV, our investigation served to highlight considerable short-comings to the Bol process. While many reports were detailed and offered some promising recommendations, for the majority the focus of investigations were too often on general or tangentially-related policy compliance and procedural minutiae, such that glaring issues of relevance to the investigation of incidents were sidelined or overlooked entirely. Considerable energy and resources were devoted to detailing the chronology of events, with considerably less attention devoted to examining the dynamics of the incidents and offering lessons to be learned from these cases.

It was disappointing to see that most of the investigations fell short of their specific mandate to provide information for the purposes of prevention of similar incidents, learning and sharing of best practices, or making recommendations. There was nearly no focus on prevention or best practices, and half of the Bol reports offered no recommendations at all. Much could be gained from these Bol if and when the mandate of such endeavors is carried out with the intention of introspection and change. As the Office has previously reported, whether these expectations can be consistently met by CSC investigating itself is less certain.

### EXCERPT FROM BOARD OF INVESTIGATION REPORT THAT HAD NO RECOMMENDATIONS

“During their interviews with three nurses who were working on [the date of the incident], one indicated that she was made aware of the sexual assault allegations; however, she was told and believed it was being handled by security staff. The Board found there was a lack of staff knowledge, from both Security and Health Services, concerning timeframes to allow for a sexual assault screening to be conducted, as well as for dealing with sexual assault victims. If any of the nurses or security staff on duty had been aware of the procedures for when a sexual assault is reported, [the victim] would have been escorted to Health Services for an assessment and possible referral to an outside hospital for an assessment. There was also a lack of staff knowledge with regards to the inmates cells and property, specifically, the gathering of their bedding and clothing for potential forensic evidence, as required by policy. The staff did not retain any evidence from either [the victim] or [the perpetrator’s] cells on [the date of the incident] or any time thereafter.”

Despite the Board’s observation and reporting of the following:

- lack of staff knowledge on the required procedures;
- poor communication among institutional staff;
- the negative impacts of staff inaction on the wellbeing and services offered to the victim; and
- the negative impacts of staff inaction on the collection of evidence and how this may have compromised the investigation.

This BoI did not offer any recommendations or identify changes that could be made to improve policy or practice, or to prevent future incidents from taking place. Clearly this BoI fell short of its purpose and mandate, and as a consequence, what possible opportunities for learning that could have stemmed from this investigation were missed.

## Findings: Interviews with Staff and Inmates

Given the under-reported and complex nature of sexual violence and the limitations of using administrative or internal data, it was important to seek the perspectives of staff and incarcerated individuals. For this component, investigators conducted interviews in four regions, at a total of seven institutions. We met with a total of 36 individuals (21 inmates and 15 staff).<sup>33</sup> Semi-structured interviews with both staff and inmates were voluntary, conducted either one-on-one, or in a small group setting, depending on the comfort of the individuals being interviewed. Staff and inmates were never interviewed together. Given the sensitive nature of the subject matter being discussed, efforts were made to ensure mental health services were available for all individuals who participated in an interview.

### Staff Interviews

Interviews with various CSC staff (NHQ staff, Chiefs of Health Services, Correctional Managers, SIOs) were conducted to gain their insights on the scope and dynamics of SCV involving inmates, how these incidents are dealt with when they come forward, and their perspectives on areas for improvement, particularly regarding prevention.

### Victims and Perpetrators of SCV

When staff were asked about the characteristics of those who tend to be involved in these types of incidents and the dynamics at play, what we heard corroborated much of what we observed in the Incident and Bol reports. Specifically, staff indicated the following:

- » Victims are those who are generally most vulnerable – low cognitive functioning, or dealing with mental health issues, “passive” inmates, individuals with major substance abuse issues (particularly those who are in debt), acquired brain injury, and transgender individuals.
- » Perpetrators were described as likely being those who have had a history of sexual offending and are generally more “predatory” or “deviant” than others.
- » Incidents likely occur in institutions “with more egress” (mediums and minimums), as the consequences in maximum institutions are too high and the increased amount of surveillance limits the “opportunity” to commit these types of offences.
- » The motivations for these types of offences are likely more instrumental or transactional in nature, rather than for sexual gratification/predation. For example, staff indicated that they suspected these types of offences occurred mostly between individuals preying on those who had debts that they couldn’t pay off. We also heard from staff that individuals are very likely to make false allegations against other inmates they simply do not like, which makes responding to incidents challenging.
- » Staff consistently told us that these types of offences are likely very under-reported, particularly for certain types of individuals (e.g., gang-involved individuals would never report an incident if they knew it happened or if they were victimized), given that the consequences for “snitching” are too high for victims and witnesses.

<sup>33</sup> The institutions visited included: Stoney Mountain, Millhaven, Warkworth, Fraser Valley Institution, Matsqui, Mission (minimum and medium), and La Macaza. Due to travel restrictions associated with the COVID-19 pandemic, interviews that were planned for March/April 2020 at institutions in the Atlantic region had to be canceled.

### *A Lack of Leadership*

It was clear from interviews with staff that there is no CSC sector leading on this issue. Specifically, when institutional Health Care staff were asked who is responsible for overseeing this issue, they indicated that SCV is a security issue. When security and correctional management staff were asked, they indicated that SCV is a health care issue. We heard the same type of contradiction in our meetings with the Health Care sector and Incident Investigations Branch (IIB) at NHQ. The IIB maintained that the few national level investigations conducted seemed indicative of the fact that these incidents rarely occurred in CSC facilities. There seems to be a sizable gap between what staff know or perceive to be happening and what is actually occurring. The absence of defined national leadership and ownership appear to be the main reasons for the lack of a coordinated, organizational approach to preventing and responding to SCV in federal corrections. Furthermore, the resistance to developing a dedicated Commissioner's Directive for this issue, and failure in directing any research to better understand the scope or dynamics of sexual violence in their system, are further demonstrations of organizational indifference and the culture of silence on this issue within CSC.

### *Weak Pulse on Prevalence*

Given the absence of national statistics, staff were asked for their perspective on the scope or prevalence of SCV. Consistently, staff indicated that it is something that probably happens "every day" but they don't see or hear about it. At the same time, we heard from every institution that SCV was not a problem at their particular institution and that if it were occurring, staff would "just know". Even at institutions where the reported incidents of SCV were the highest (based on our review of incident data), staff told us that they had only ever heard of one or two incidents having occurred during their time (one staff member we interviewed had been at that particular institution for more than 20 years).

These findings are concerning for a number of reasons. Either the organization (at all levels) do not know what is happening on the ground, in part due to the lack leadership on this issue, as well as the poor tracking and reporting. Or, staff know what is happening, but were not forthcoming with us. As one staff member plainly put it, "Staff either don't know what's going on – or if they do, they won't tell you."

### *Training and Prevention*

When staff were asked about training, there appeared overall to be little interest by staff on increasing their role or skillset as it pertains to addressing and preventing SCV. We heard from a few Health Care staff that their role is to be reactive and responsive to incidents, and it should remain that way. When asked more specifically about what they do to respond, most staff simply indicated that they would "follow the appropriate policy". Furthermore, we heard from other staff that because this is such a small issue, any training would be a waste of time as their skills would deteriorate from lack of use.

Of particular interest to this investigation was how gains could be made in the area of prevention. When staff were asked about prevention, it was clear that CSC has no specific programming or initiatives aimed at preventing or even acknowledging SCV. Staff were similarly asked about prevention strategies that could be put in place. While a few staff chalked this issue up to being a component of institutional "street culture", another saying the best way to prevent it is "just don't go to prison", we most often heard that there needs to be more education or awareness for inmates as soon as they walk through the doors. Specifically, staff suggested that there be an in-person program offered by a trained health care professional that is delivered at reception or the assessment units.



## Inmate Interviews

Similar to staff interviews, voluntary and confidential interviews were conducted with inmate representatives (e.g., peer counsellors, inmate committee chairs/representatives, peer educators, peer health ambassadors) to gain their perspective on SCV in CSC institutions.

### *Victims are Not Reporting*

The most consistent theme we heard from the inmate representatives was that no one reports these types of incidents and that these incidents do in fact occur with relative frequency. We heard that the system creates disincentives for reporting that are too high for victims. Victims run the risk of being labeled “rats” and put themselves at risk for assault if they broke with the prison “code” by disclosing their abuse to staff. Furthermore, given the nature of SCV, we heard that victims, many of whom are survivors of previous abuse, feel guilt, shame, and trauma that is further compounded by the institutional environment.

Representative also told us that staff often “turn a blind eye” to abusive dynamics between inmates (e.g., “pimps and prostitutes or pets”) or to incidents that are discretely reported. As one inmate representative put it, “the culture of silence is deafening in here”. Inmates indicated that they do not feel comfortable reporting, and that this would require a basic level of trust between inmates and staff that just simply does not exist. Be it as a result of the power imbalances, or high staff turn-over, many factors makes it difficult to build or maintain relationships of trust between staff and inmates. While a small number of incidents are reported, representatives suggested that these cases are likely those that are either the most “serious” or are false accusations levied by individuals in order to make the alleged perpetrator “look bad” or “get in trouble”.

Instead of reporting incidents to institutional authorities, we consistently heard that inmates simply “handle” these issues themselves. Some described SCV as “unacceptable practice” that is “not tolerated”. Others indicated that these matters are “swiftly dealt with” by other inmates, rather than putting the issue in the hands of staff.

### *Victims and Experiences of Abuse*

In terms of those who are most at risk, we were often told that 2SLGBTQ+, specifically transgender individuals, are often targeted, either as victims or as alleged perpetrators. As reported on in the Office’s last annual report, there have been allegations at some women’s institutions that transgender individuals are, as one representative described it, “gaming the system” by malingering their gender identity or expression in order to gain access to their victim pool. While this may be a founded concern in some isolated cases, there is a considerable amount of transphobia and homophobia among inmates and some staff. It was described to us that trans individuals more frequently get recruited as prostitutes in exchange for protection by more “powerful” and physically larger inmates. It is clear that CSC needs to develop a specific strategy to protect 2SLGBTQ+ individuals, given their increased vulnerability for sexual victimization and discrimination.

Some individuals shared their own personal experiences of institutional SCV and described the lack of responsiveness by staff and lack of services available to them when they reported these incidents. One first-time federal inmate described that he experienced sexual abuse and bullying at all of the institutions (including provincial remand) where he has been placed. He described informing staff of the abuse he experienced while double-bunked, however staff simply looked the other way. He attributed the repeated abuse to his small stature, his youthful appearance, and his general inexperience with the system. He explained, “I have to say don’t touch me once a week”. He described that unwanted sexual advances and propositions, touching, and groping are all common place for him and others like him.

Another inmate who disclosed his experience of sexual abuse in prison indicated that one staff member went so far as to say that he “deserved it” because of his own index offence having been sexual in nature. He added that he was never offered services to deal with his sexual victimization.

### *Incidents Involving Staff*

In addition to sexual coercion and violence between inmates, we heard that staff are also allegedly involved in incidents that rarely get reported. Inmates reported that such incidents include inappropriate relationships between officers and inmates, officers watching women undress through the slots, staff using sexually derogatory terms to refer to inmates, as well as flirting and sexual harassment going both ways between inmates and guards. The use of unnecessary or excessive strip searches was also raised at both men’s and women’s facilities. One inmate described it as an unnecessary violation, and could not reason why strip searches would be warranted in some cases in which they were employed, such as after video or closed visits.

On occasion, incidents of sexual assault perpetrated by staff are reported and investigated. For example, in May 2020, a former correctional officer from Nova Institution for women was officially charged, after seven inmates at the institution alleged that he had inappropriate sexual relationships with them. Following a year long investigation, the former correctional officer was charged with six counts of breach of trust and one count of communication for the purposes of obtaining sexual services while being employed as a guard in the prison.<sup>34</sup>

### *Opportunities for Prevention*

While a small minority of individuals did not see the need for prevention efforts, much like the staff, most representatives indicated that there is a need for awareness and education for both staff and inmates. One representative gave the example that specific education on the notion of consent is needed given that it is viewed differently by “different generations” of inmates, and what may be acceptable to one person is not by another; therefore, teaching people the principles of consent would go a long way to addressing SCV.

Other individuals expressed a desire to know what their rights are (in terms of reporting, establishing boundaries) and have that be made available to them as soon as they arrive to the institution. Others described the need for a better mechanism for reporting incidents that makes it safer for victims to come forward. It was suggested that there be an impartial or external (i.e., non-CSC) body that can receive, investigate and work with police to deal with these types of incidents, especially when it involves CSC staff. Moreover, we were told that there needs to be more consistent and effective services in place for individuals who have been victimized. One representative described the need for a “zero tolerance policy on sexual harassment”, a big part of which requires CSC to engage in a conversation with both staff and inmates about sexual violence in prison. One inmate committee chair even suggested that CSC host a town hall with staff and inmates to have an open discussion on prison sexual violence.

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<sup>34</sup> Sullivan, (2020, May 9). Ex-guard Charged with Sexual Assault. *Halifax Chronical Herald*.

12. I recommend that CSC develop and offer education, awareness, and training programs for *all* staff and inmates on sexual coercion and violence. Specific training on SCV should be provided to staff by certified experts in the field of prison sexual violence. Awareness programming on sexual violence should be provided to inmates upon admission to federal corrections.



Therapeutic Range - Kent Institution

## **NATIONAL INVESTIGATIONS**

### 2 // National Systemic Investigation on Therapeutic Ranges

## Introduction

In my 2018-19 Annual Report, I reported on CSC's Therapeutic Ranges at maximum security institutions for men, and expressed some reservations about this strategy for delivering moderate intensity mental health care. At the time, it seemed that the Therapeutic Range model was designed to divert inmates away from administrative segregation. This impression was partially based on CSC's *Corporate Business Plan* (2018-19 to 2022-23), which defined the aim of Therapeutic Ranges as an "alternative to segregation for offenders who engage in challenging behaviours secondary to mental health." I also questioned the clinical value of this model over other diversion or intervention strategies, and whether resources committed to its implementation were worth the expenditure. After hearing from my investigators who reported substantial variability in the implementation of these ranges, the services offered, and a lack of clarity (at the site level) regarding their intended purpose versus actual function, I committed to conducting an in-depth investigation of Therapeutic Ranges.

## Methodology

This investigation occurred in two parts. First, we ascertained CSC's expectations for the Therapeutic Ranges by meeting with the Health Services Sector at national headquarters and conducting a review of relevant corporate documentation. Second, we sought to determine the degree to which implementation aligned with CSC's expectations through a file review, interviews with inmates and staff; and detailed observational notes from site visits.



View from cell – Edmonton Therapeutic Range

Three of the five maximum-security sites with a Therapeutic Range were visited: Edmonton Institution, Atlantic Institution, and Kent Institution.<sup>35</sup> These sites housed the majority of Therapeutic Range inmates, and delivered the full range of interventions intended by CSC. The number of staff and inmates interviewed during each of the site visits is documented below.

<sup>35</sup> Follow-up inquiries were completed by investigative staff assigned to Millhaven and Port-Cartier Institution in order to widen the generalizability of our findings. However, during the period that this investigation was being conducted, neither of these institutions had yet fully implemented their Therapeutic Ranges.

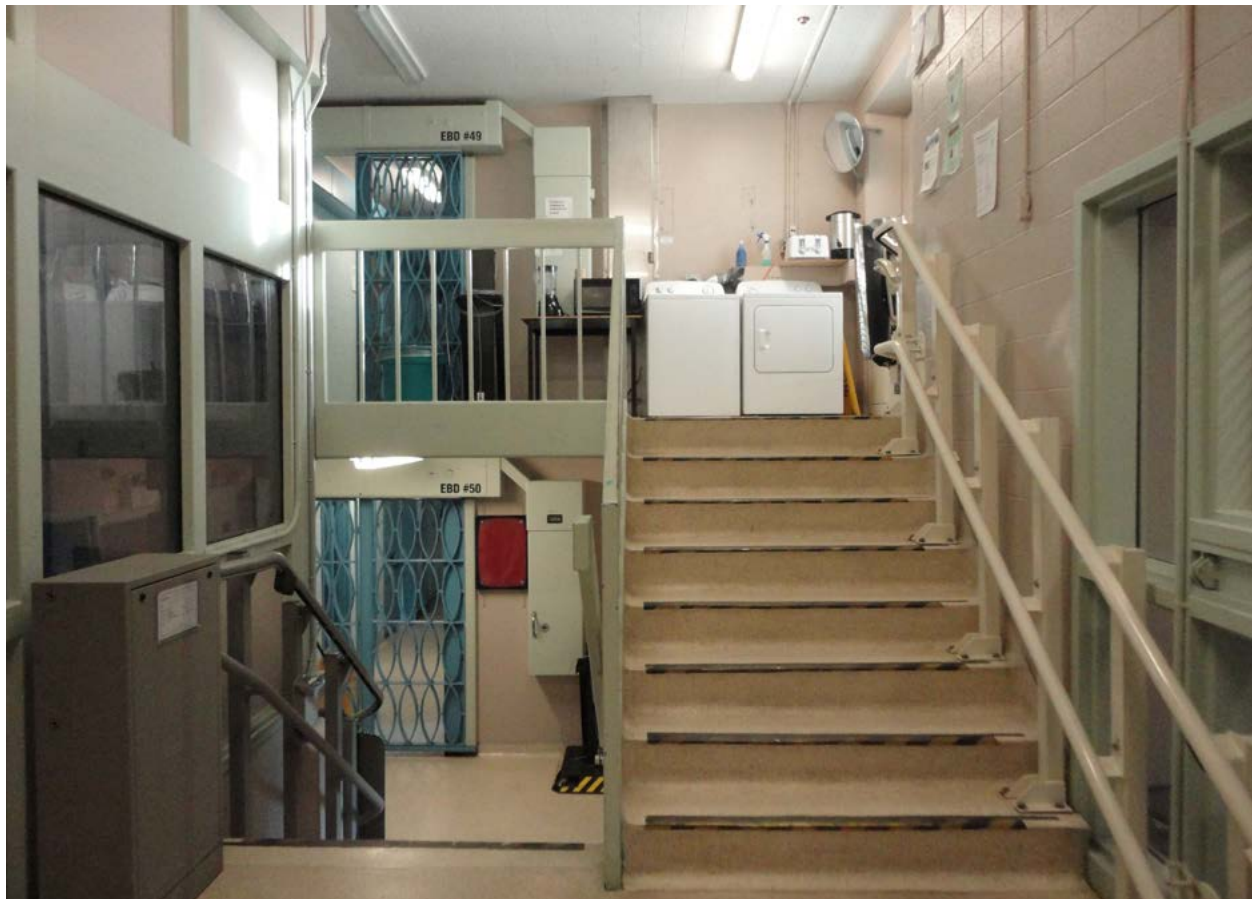


**Table 2. Number of Staff and Inmates Interviewed During Each Site Visit**

INSTITUTION	DATE OF VISIT	STAFF	INMATES	TOTAL
Edmonton	Oct. 23-24, 2019	10	5	15
Atlantic	Dec. 11-12, 2019	6	4	10
Kent	Jan. 15-16, 2020	8	4	12
TOTAL		24	13	37

After each site visit, a follow-up debrief letter was sent to the institution's Warden and the respective Chief of Mental Health Services. This correspondence summarized site-specific findings including both best practices and identified issues, and suggested potential courses of action when appropriate. However, no formal recommendations were made.

On a more general point and use of terminology, some Health Services staff prefer referring to clients who reside on sites designated as "Health Services Units" (e.g., Therapeutic Ranges) as "patients." However, based on our investigation, I am of the view that the individuals kept in these environments are largely treated and managed as inmates. That being said, we agree that some individuals housed on these ranges would be better served as patients in hospitals.



Therapeutic Range entrance – Atlantic Institution



## Summary of Major Findings

Our investigation revealed the following major findings:

1. Therapeutic Ranges appear to be under capacity across all institutions, and operational staff continue to place inmates who do not require intermediate mental health care into empty Therapeutic Range beds – sometimes against the wishes of Mental Health staff.
2. Therapeutic Range inmates are spending too much time in their cells and an inadequate amount of time engaged in rehabilitative services. Further, restrictive inmate movement policies have the potential for both intentional and incidental abuse/misuse.
3. Therapeutic Range units lack an obvious therapeutic *look-and-feel*. Also, their physical locations and infrastructure and are not conducive to mental health care.
4. Overall, staffing complements on the Therapeutic Ranges do not reflect institutional needs; have a strong security presence; lack adequate input and collaboration with Indigenous Services; and are negatively impacted by high attrition among senior Mental Health Services staff, resulting in lack of direction among front line workers. On a more positive note, the *Therapeutic Unit Officer Pilot Program* has the potential to exemplify Dynamic Security best practice, and should be encouraged and developed.
5. Communication and collaboration between Therapeutic Range staff lacks structure and continuity resulting in inconsistent case management and inadequate levels of mental health care.
6. Treatment planning for Therapeutic Range inmates is inconsistent and CSC's national standards as outlined in the *Integrated Mental Health Guidelines*<sup>36</sup> appear unhelpful.
7. Operational demands obstruct the ability of Mental Health Services to provide adequate individualized treatments and interventions to designated inmates. Consequently, inmates appear to be ill-prepared for discharge into the general inmate population; to cascade to lower levels of security; or for eventual community release.
8. Mental health service delivery generally lacks the level of Indigenous cultural responsiveness required by section 4(g) of the *CCRA*.

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<sup>36</sup> Dated, May 2019.

## Specific Findings

### 1. Bed Capacity, Referrals, and Placement

According to CSC's *Integrated Mental Health Guidelines*, Moderate Intensity Intermediate Mental Health Care (MIIC) is provided at select medium and maximum-security sites.<sup>37</sup> At the maximum-security sites, this level of care is currently delivered on Therapeutic "Ranges". These ranges are meant to manage inmates receiving Intermediate Mental Health Care services who do not meet the admission criteria of Treatment Centres, but who have been assessed as having *Considerable* to *Substantial* needs via the Mental Health Needs Scale (see text box for admission criteria).

According to CSC, it is possible for patients to receive Intermediate Mental Health Care without residing on a Therapeutic Range.<sup>38</sup> That is, all inmates who meet the criteria for Intermediate Mental Health Care should be benefiting from the resources tied to the Therapeutic Ranges. We were forewarned, however, that there would be a gap between the number of Therapeutic Range beds available and inmates who meet the admission criteria. Contrary to CSC's forewarning, we did not find any of the sites to be over-capacity. In reality, the Therapeutic Ranges were all *under* capacity. There seem to be two major explanations for this.

On the one hand, not all individuals who meet the Intermediate Mental Health Care criteria are placed on a Therapeutic Range. Some receive care at their cells (i.e., ambulatory care) or are managed in specialized units, such as the newly introduced Structured Intervention Units (SIUs). For example, during our visits to Atlantic Institution in December 2019 and Kent Institution in January 2020, we found a total of five inmates receiving intermediate mental health care in the SIUs. Additionally, prevailing and immediate population management issues (e.g., incompatibles, gangs, muscling and victimization, management of subpopulations) exert a substantial influence on the management and placement of inmates on the Therapeutic Range.

### ADMISSION CRITERIA FOR MODERATE INTENSITY INTERMEDIATE MENTAL HEALTH CARE (MIIC)

#### *Integrated Mental Health Guidelines* (May 2019)

- **Mental illness** including but not limited to major mood, psychotic, post-traumatic, anxiety spectrum and personality disorders; and/or **Cognitive impairment**, including but not limited to intellectual disability, acquired brain injury and dementia.
- **Considerable to Substantial needs that impair the offender's ability to function in a mainstream population** (e.g., recurrent self-harm, suicidal risk, neglect of basic self-care, vulnerability to predation as a result of impairment).
- **Require the availability of daily support** (e.g., for mental status monitoring, intense psychotherapy or behavioural intervention, basic self-care support, medication administration and supervision), but do not require 24-hour care or hospitalization.
- **Require psychiatric or specialized assessments** not otherwise available.
- May also **pose challenging behaviours / heightened security requirements** that are secondary to their mental health needs.

<sup>37</sup> This applies only to men's institutions. As stated in CSC's *Integrated Mental Health Guidelines* (p.39): 'Intermediate Mental Health Care for women is provided at the Regional Psychiatric Centre (RPC), Structured Living Environments (SLEs) and all mainstream women's institutions.'

<sup>38</sup> Correspondence from the Assistant Commissioner Health Services, dated June 4, 2019, and reiterated on September 23, 2019, during our meeting with CSC's Health Services Sector in Ottawa.



Unoccupied Therapeutic Range cell – Atlantic Institution

On the other hand, not all individuals residing on Therapeutic Ranges meet the admission criteria. In fact, some are placed there as a population management strategy due to operational demands (such as incompatibles) that “trump” health policy guidelines. For example, during our visit to Edmonton Institution in October 2019 we found that of the 21 individuals on the Therapeutic Range, only 12 met the admission criteria. The remaining nine were “dumped” onto the range by correctional staff. Although, by and large, the Mental Health Teams are coordinating referrals and placements (as per policy), all three sites reported that operational staff continue to place inmates who do not meet the admission criteria onto the Therapeutic Range.

## 2. Time In-Cell and Restrictive Inmate Movement

CSC’s Health Services Sector advised that Therapeutic Ranges should not be viewed as a segregation diversion strategy. From CSC’s perspective, mental health care plays a preventative role in diverting inmates from undesirable *downstream* outcomes, by providing them with *upstream* individualized services. The expectation is that early assessments and interventions will allow the Service to identify the optimal level of mental health care and avoid placements in restrictive housing for behaviours associated with mental health dysfunction.



Therapeutic Range – Millhaven Institution

During our visits, however, we learned that de-segregation resulted in some unintended consequences. For example, one inmate shared that, “guys are locked down more since they cut off seg, we end up spending more time in our cells.” At another institution, we were told by a frontline Mental Health Services staff that, “the pressure to empty segregation means that [Operations staff] are dumping inmates on the [Therapeutic Range] without really consulting us.” From our vantage point, this “dumping” of segregated inmates on the Therapeutic Ranges appears to have been a stop-gap measure for offender management while segregation cells and Structured Intervention Units (SIUs) were under heavy scrutiny. It is unclear, however, whether this was a temporary strategy or if Therapeutic Ranges have become a new form of SIU-lite, that is, without due process safeguards and added services pursuant to the legislative requirements of Bill C-83. What follows would suggest the latter.

Both inmates and staff at all three institutions reported that individuals were spending up to 23 hours a day in their cells on the Therapeutic Ranges. My investigators were especially troubled when a senior officer revealed that there is “less time out of cell in the [Therapeutic] range than at the [Structured Intervention Unit].”

Out-of-cell time also depended, in some respects, on whether inmates availed themselves of the opportunities offered to them. Of course, since time out of cell is highly regimented it is reasonable that a person might not feel “up to” availing themselves *at that moment*. For example, one inmate said “it’s notorious here for saying they [correctional officers] opened the cell doors, but they don’t.” The inmate then went on to describe how he was anticipating a long-awaited doctor’s visit to see him about a medical diagnosis. However, he was asleep when the doctor arrived. The correctional officers had told him that they opened his door, but the inmate was never wakened. He now has to wait another lengthy period until the next opportunity to see his doctor.

Combined with a highly restrictive Inmate Movement policy (Commissioner’s Directive 566-3), which only allows cell doors to be left open during the “changeover period or when a group of inmates return from special activities...,” and one cell door per range to be open when the area is secured, the out-of-cell routines on the Therapeutic Ranges have the potential for both intentional and incidental abuse/misuse.

Our investigation suggests that inmates residing on the Therapeutic Range generally appear to be:

1. Spending most (or too much) of their time in their cells.
2. Unmotivated to participate in their treatment plans.
3. Reluctant to cascade to lower levels of security.

As a result, these inmates/patients are not being effectively prepared for release.



Occupied Cell – Therapeutic Range – Atlantic Institution







“Pinel Bed” – Atlantic Institution

### 3. Physical Infrastructure and Appearance

During site visits we were struck by the physical similarities between the Therapeutic Ranges and administrative segregation.

#### Therapeutic Ranges Compared to Former Segregation Ranges

INSTITUTION	THERAPEUTIC RANGE	FORMER SEGREGATION RANGE
<p>ATLANTIC INSTITUTION</p>		
<p>EDMONTON INSTITUTION</p>		



The common room and yard at Atlantic Institution were inadequate. The windows separating these two spaces had poor insulating capacity and clearly required an upgrade. During one of our interviews, which took place in the common room, we were uncomfortable with how cold it was. The “yard” is an enclosed concrete area covered by a wire mesh canopy, which was half-blanketed with snow. Again, there seemed nothing therapeutic or rehabilitative about the yard. As one inmate expressed to us, “I just sit in my cell and watch TV, write complaints – I don’t want to go outside to look at a freedom that I can’t have. I wouldn’t even do this to a dog!”



Common space and yard – Therapeutic Range - Atlantic Institution

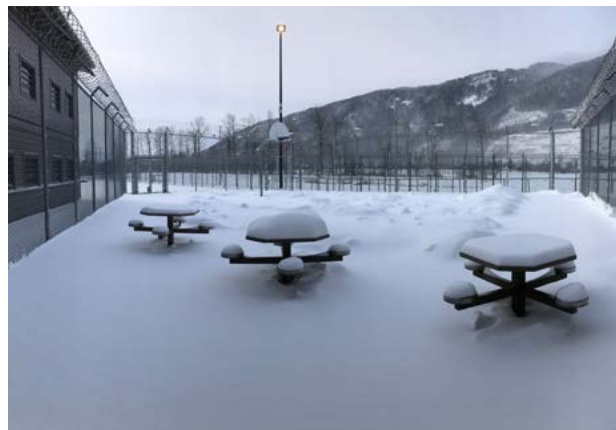
The mini yard at Edmonton Institution's D-Unit was simply a cage within a cage. Inmates complained about the space being so limited that they were often "rubbing shoulders." In contrast, the yard at Kent Institution was comparably much more spacious and open.

It is reasonable to assume that if a space is to be labelled therapeutic then it should be distinguishable by its appearance. Instead, we found no visible difference between the Therapeutic Ranges and other areas of the institutions. In interviews, both inmates and staff raised concerns about the location, design, and accessibility of the Therapeutic Range, which can be summarized as follows:

- A major challenge for maximum-security institutions is the management of various sub-populations. As it currently stands, many populations cannot mix or interact and this seems to create a barrier to mental health placements, e.g., where incompatibles are concerned.
- On the new 96-bed units, the 24-bed Therapeutic Range is located adjacent to the three general population units, which creates added pressure and stigma for those with mental health concerns. Inmates receiving mental health care in prison are often targeted and muscled (e.g., for drugs) by fellow inmates. In addition, dynamic security is not easily accommodated in these pods.
- Activities and routines on the Therapeutic Range are often disrupted by operational pressures emerging from outside the unit (e.g., lockdowns). Given the unique needs of inmates receiving Mental Health Care, to the extent possible this population should be separated and protected from such disruptions.
- A Therapeutic Range should be equipped with dedicated programming rooms for group activities, and appropriate space for individualized services (e.g., counselling, therapy).



Mini-Yard – Therapeutic Range - Edmonton Institution



Yard – Therapeutic Range - Kent Institution

In summary, ideally, a Therapeutic Range should not be negatively impacted by pressures emerging outside the unit; allow inmates to cascade within the unit; co-locate a dedicated team of Mental Health and Operations staff; and have a therapeutic look and feel.



#### 4. Staffing Complement

Budget 2017 allocated new funding to create Therapeutic Ranges in five men's maximum-security sites. The resourcing and staffing model appeared to be based on a 20-bed unit, except for Atlantic, which has capacity for 30 (see resourcing model in the Table 3, provided by CSC on June 4, 2019).

**Table 3. Planned vs. Actual Mental Health Staffing Complement as of May 2019**

GROUP <sup>39</sup>	PLAN	ATLANTIC	PORT-CARTIER	MILLHAVEN	EDMONTON	KENT
PS-03	1	0.4	1	1	1	1
SW-SCW-02	1	3	1	1	1	0
WP-03	1	0	2	1	0	1
NU-HOS-03	1	2	1	0	1	2
CR-04	1	1	0.5	1	0.5	1
OP-02	0	0	0	1	1	0
TOTAL	5	6.4	5.5	5	4.5	5

CSC explained that this model is not rigid, and that they expected some variability in the actual staffing complement. Further, this variability would be addressed based on “an assessment of the population needs...not recruitment concerns.” Still, my office found a lot of variability, inconsistencies and challenges with respect to recruitment and retention of mental health staff. Planned staffing simply did not match actual staffing at any site, resulting in high inmate to mental health staff ratios and limited access to mental health services. This situation is further aggravated by the fact that all the sites have reported shortages or unreasonably long waits (anywhere from 6 to 12 months to see a specialist) for specialized mental health services; namely, psychologists, occupational therapists, and psychiatrists.

<sup>39</sup> Groups defined as follows: PS = Psychology; SW-SCW = Social Work-Social Welfare; WP = Welfare Programs (Mental Health Officers); NU-HOS = Hospital Nursing; CR = Clerical and Regulatory; OP = Occupational and Physical Therapy.

## BEST PRACTICE

### *Therapeutic Unit Officers – Atlantic Institution*

In its 2018-19 Annual Report, the Office discussed how additional funding received by Atlantic Institution was used to create four Therapeutic Officer positions classified as CX-02. The Office questioned whether this type of officer would add any value beyond that of a traditional correctional officer.

However, during the visit to Atlantic Institution, we were encouraged by what we observed. The “Therapeutic Unit Officer Pilot Program” began when the institution’s psychologist identified a need on the Therapeutic Range: The inmates and staff required security, but a type of security that would not disturb or obstruct the therapeutic nature on the unit.

This program aims to offer a familiar face on the Therapeutic Range; to break down barriers between Health Care and Security as well as between correctional staff and inmates; and to involve correctional staff with more of the Mental Health Team’s activities. The officers often expressed how much they enjoyed their roles.

All staff and inmates interviewed by the OCI praised the Therapeutic Unit Officers, were pleased with the four individuals assigned to this role, and were supportive of their mandate and function. I am of the opinion that this pilot not only represents correctional best practice, but is also indicative of the value added by implementing the basic principles of good Dynamic Security.

## 5. Communication and Collaboration

At some institutions, the offices of Mental Health Services and Operations were co-located near the Therapeutic Range. The physical proximity of these two groups suggests increased opportunities for information sharing and the breaking down of silos. It was also good to hear some operational staff acknowledge the importance of being informed about the unique needs of Therapeutic Range inmates, and seeking the input and advice of mental health staff. Insofar as these patterns continue, the co-location of Mental Health and Operations appears to be a best practice.

On the other hand, information sharing between operational staff during shift changes and between Operational and Mental Health Services staff, seemed to be inconsistent and lacked systematization. More formalized approaches to communicating inmate cases should be established in order to ensure continuity of treatment and services.

## 6. Inconsistent Treatment Planning

On paper, the daily routine for Therapeutic Range inmates seems to be similar to other maximum-security inmates, except for the level and frequency of group and individual clinical interventions. This was confirmed during interviews with Mental Health Services staff at the institutions. As such, treatments and services are expected to be delivered according to individualized treatment plans for all inmates.

Despite these expectations, most of the inmates interviewed at the three sites were not aware or could not recall their treatment plan and/or goals. In a small number of cases, when asked to share their treatment goals, the inmates listed a series of expectations that were more likely born out of prison culture than from any treatment planning: “behave, do time, take programs, don’t get into any trouble.” Of course, given the prevalence of cognitive and intellectual deficits on the Therapeutic Ranges, it might be the case that these individuals are lacking the mental capacity to recall, in detail, the specifics of their treatment plans.

Staff also complained of not having access to a standard template for Treatment Planning. Instead, they seem to rely on general guidelines for what should be included.



Therapeutic Range Programming Space – Kent Institution



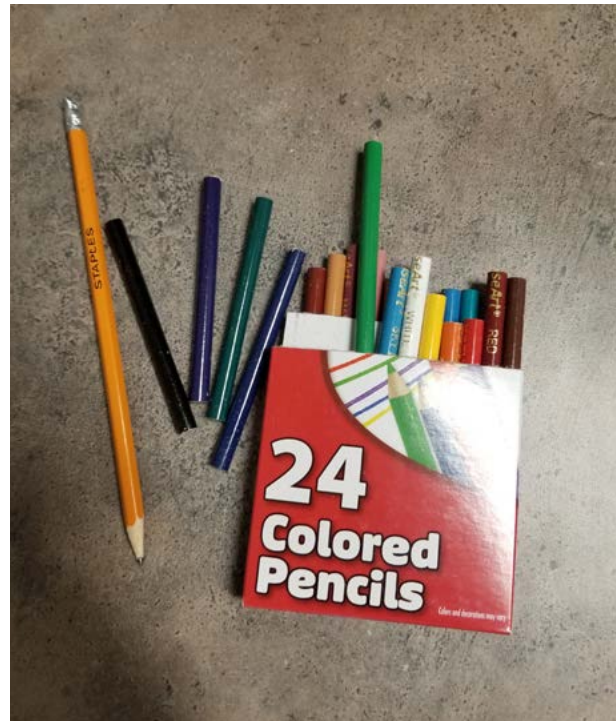
Therapeutic Range Programming Space – Atlantic Institution

## 7. Mental Health Services and Release Planning

Staff explained that treatment planning and delivery depends in large part on each workers' domain of knowledge, experience, and the availability of time and resources. When a site is affected by staff shortages, frontline mental health workers are left with little recourse but to rely on recreational activities or "coping strategies." One staff member expressed, "when we had more staff, the workers had more time to dedicate to treatment planning." Another staff member described herself as a "coping strategy mule," alluding to the fact that she is now mostly handing out items (e.g., toys, puzzles, stationary, art supplies) as short-term coping devices in lieu of more enduring interventions. These coping strategies were often unrelated in any obvious way to identified treatment goals.

In addition, staff frequently expressed frustration with security restrictions on the purchase and use of consumable items (e.g., art materials), which hampers the delivery of many therapeutic services. For example, at one institution the Occupational Health and Safety committee forbade the use of full-length pencil crayons, as they were deemed a safety and security risk. Now, all pencil crayons must be cut in half before being distributed to inmates on the Therapeutic Range.

The combination of long hours behind cell doors, mental illness, dependency on the structure and routine of institutional life, and the lack of meaningful one-to-one psychological services highlights obvious gaps. Currently, psychological and behavioural programs are mostly delivered through group sessions. One-to-one sessions seem to be largely focused on recreational activities such as arts and crafts. Although these approaches are positive and should continue, I am concerned that the inmates are not receiving the sort of individualized support that would prepare them for lower security levels, release back into general population, and/or eventual community reintegration.



Pencil Crayons cut in half for "safety" – Edmonton Institution

I was also very concerned to hear that there was no psychological support for individuals struggling with substance use issues at sites where the need was high. If substance abuse is an identified need on a treatment plan, then both medical and psychological therapies should be offered to inmates residing on the Therapeutic Range.

Despite the above mentioned concerns, the presence of Mental Health Officers (MHOs) at two of the three sites (Atlantic and Kent Institutions) seemed positive. My investigators observed that the MHOs appeared very committed to delivering effective group and individualized programs to their clients. In collaboration with their respective Mental Health Teams, these staff have been working towards building rapport with inmates, delivering timely programs, and meeting the objectives of the Intermediate Mental Health Care guidelines. As such, MHOs should be recognized as assets to mental health service delivery.

## BEST PRACTICE

### *Mental Health Officers*

MHOs are classified as WP-03, or *Welfare Programs*. As such, they are not correctional officers, but front-line staff for Mental Health Services. MHOs deliver one-to-one and group interventions and programs. Their education and training seem to vary from Social Work to bachelor's level degrees in Psychology, Neuroscience, and Behavioural Programming. Their job descriptions appear to be site specific; however, they are engaged in a wide variety of frontline mental health services and interventions:

- Assessing appearance, mental health, and hygiene.
- Social and Coping skills development.
- Anger and conflict management, mediation, and distress tolerance.
- Cognitive and Dialectical Behaviour Therapies.
- Outreach to inmates for mental health assessments and placements.
- Liaising with community organizations and services.
- Problem solving and emotional self regulation.

## 8. Mental Health Service Delivery to Indigenous Inmates on the Therapeutic Range

At Kent and Edmonton Institutions, at least half of inmates on the Therapeutic Ranges identified as Indigenous. Those we spoke to confirmed that many of the Indigenous inmates were actively practicing (or wanting to practice) their spiritual/cultural traditions, to the extent that they were able to do so. It would, therefore, be prudent to consult with Elders on culturally appropriate services and interventions (e.g., responses to self-harming). As a general rule, it is critical that programs and services are culturally-informed and delivered by Indigenous staff (e.g., Elders, Indigenous Liaison Officers, Indigenous Correctional Program Officers). However, this investigation revealed that Indigenous inmates, though keen to practice their traditions and spirituality, had limited access to these and were rarely able to access their Elders.



Indigenous cultural centre used for Therapeutic Range programs – Edmonton Institution

13. I recommend that CSC conduct an external review of its Therapeutic Range resourcing model, and to ensure that bed capacity and staffing reflects the actual needs of Mental Health Services. This review should also consider the following improvements:
  - a. A therapeutic look and feel that incorporates more open spaces and yards with access to fresh air, shelter, and recreation; a dedicated programming space for both individual and group counselling; and easy and private access to health care facilities. Therapeutic Ranges should be placed away from the direct view of other inmates who are not residing on this range.
  - b. Greater reliance on dynamic security practices. This can be in part accomplished by implementing the Therapeutic Unit Officer Pilot Program at all Therapeutic Range Sites.
  - c. Dedicated complement of correctional and mental health staff, and access to Elders and Indigenous Services staff, commensurate with demand for these services on the Therapeutic Range.
  - d. Elimination of beds that employ the Pinel restraint system, i.e., "Pinel Beds", from Therapeutic Ranges.
  - e. Allows for cascading to lower levels of security within the unit, minimizing transfers where possible and appropriate.





Library - Donnacona Institution

## NATIONAL INVESTIGATIONS

*3 // Learning Behind Bars: An Investigation of Educational Programming and Vocational Training in Federal Penitentiaries*



## Introduction

The ways and means by which individuals learn have changed dramatically over the past two decades. Digital technology has revolutionized the classroom, greatly expanding access to education and providing new ways of learning, communicating and collaborating. Learning can now occur from a distance where many classrooms are virtual and may include tools such as webinars, online discussion forums, digital collaborative workspaces, game-based learning, wikis, google docs, interactive content and podcasts. Learning can take place anywhere and at anytime; all that is required is a computer, tablet or smartphone. Digital learning allows individuals to work through subjects at their own pace and to personalize and adapt tools to better suit their needs. Employers are looking for individuals with information, media and technology literacy as well as those who can collaborate and communicate effectively using technology. Given the vast amounts of information available today, the ability to synthesize and make sense of that information and then share and use it in smart ways is critical to succeeding in today's economy.

In Canada, those behind federal prison walls have long been deprived of most technological advancements in learning. The current state of inmate access to information and technology is backward and obsolete. Offenders have limited access to outdated stand-alone computers that still use floppy disks.<sup>40</sup> CSC runs Local-area Networks, which are equipped with software from the early 2000's, have no access to the Internet, contain limited reference materials and have almost no technical capacity to support or facilitate eLearning of any kind. Moreover, many prison shops visited for this investigation require offenders to work on obsolete machines no longer used in the community. Few CORCAN-run industries provide training or teach skills that are job relevant or meet labour market demands. The Service has continued to maintain obsolete infrastructure and technological platforms for such an extended period of time that these problems now appear insoluble. Federal corrections maintain environments that are information-depriving, often using security concerns as a basis for maintaining the status quo. There appears to be little motivation to improve, evidenced by the lack of progress over the last two decades.

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<sup>40</sup> Ontario region, with the exception of Collins Bay Institution (Medium and Maximum), uses an Inmate Access Network to allow offenders to store information on their own drive.

Yet, research and experience tell us that prison education and vocational training offer an important opportunity to intervene in the lives of individuals and a chance to provide them with the skills and knowledge required to succeed in today's economy. The reality is that the vast majority of individuals who are incarcerated *will* eventually be released back into the community; therefore, it is in the best interest of not only those who are incarcerated, but to all Canadians, that they be offered the basic tools in order to eventually contribute to the Canadian workforce and economy in law-abiding ways.

The need for learning opportunities behind bars is considerable. A high percentage of inmates have had negative experiences in formal educational systems; many have dropped out, and most have had difficulty finding legitimate employment or have never held a steady job. In reality, nearly three-quarters (72%) of federally sentenced individuals have some need for education or employment; 54% of the incarcerated population have less than a grade 10 education and 62% of federally sentenced men were unemployed at the time of their arrest.<sup>41</sup> Learning can also provide individuals with an opportunity to explore a new identity that is not involved in criminal activities and presents a positive self identity. The prison school and vocational training environments offer inmates a safe space to become learners, students and apprentices. It is a chance to explore new areas of interest and to challenge old ways of thinking and doing in a pro-social, positive environment. The skills and knowledge they acquire and the process of obtaining them can help build self-confidence, self-esteem and foster a better understanding of self.<sup>42</sup>

CSC performance indicators show that in 2018-19, 68% of offenders upgraded their education and 60.8% completed vocational training prior to their first release.<sup>43</sup> However, these indicators do not necessarily mean that they earned a high school diploma or hours toward an apprenticeship. It may only indicate the completion of a single education course or credit or the completion of a vocational program such as Workplace Hazardous Materials Information System (WHMIS), the Basics of Fall Protection, Work Safely with Power Tools, Food Safety or Occupational Health and Safety, few of which provide the means for securing employment in the community after release. CSC policy identifies education as a need at admission for all offenders who have not obtained a high school diploma or its equivalent. Employment needs are identified at admission for those with an unstable work history or who lack marketable job skills and experience. CSC allocates approximately \$64M each year for learning (education: 24M, CORCAN: 40M), representing less than 3% of CSC's overall budget.<sup>44</sup> For a population with such need, these financial resources appear insufficient.

<sup>41</sup> CSC, *Employment and Employability Strategy for Offenders: 2018-19 and Beyond* (April 30, 2018).

<sup>42</sup> See: Szifris, Kirstine, Fox, and Bradbury, (June 2018). A realist model of prison education, growth, and desistance: A new theory. *Journal of Prison Education and Re-entry*, 5(1), pp. 41-62; and Behan and Cormac, (2014). Learning to escape: Prison education, rehabilitation and the potential for transformation. *Journal of Prison Education and Re-entry*, 1(1), pp. 20-31.

<sup>43</sup> CSC. (2018-19). *Departmental Results Report*.

<sup>44</sup> On December 19, 2019, the Office requested a number information and data points from CSC regarding education and vocational training. CSC finally provided a response to the Office on June 3, 2020, more than two weeks after the report had been finalized and sent to the Service for review of errors and omissions.

REGION	NUMBER OF FULL/PART TIME TEACHERS*	NUMBER OF VOCATIONAL INSTRUCTORS
Atlantic	21	37
Quebec	59.5	101
Ontario	51	94
Prairies	60	68
Pacific	28	30
TOTAL	219.5	330
2019/2020: NUMBER OF INDIVIDUALS ON WAITLIST (MID-YEAR)	2,711**	694***

\*Information reported by Chiefs of Education as of January 23rd, 2020.

\*\*Source: Data Warehouse. Data current up to mid-year of fiscal year 2019-2020

\*\*\* Source: Data Warehouse. Data current up to mid-year of fiscal year 2019-2020. Note: Vocational certification training for the most part does not use a waitlist system due to the fluctuating nature of length, type, etc. of these certifications. The number in the table therefore represents only very specific types of vocational training referrals and therefore does not capture all individuals waiting for vocational skills training.

For nearly two decades, CSC has remained steadfast and impervious to expanding or updating inmate access to technology and information behind bars. Since 2002, there has been a moratorium in place prohibiting offenders from bringing a personal computer into a federal institution. In 2011/12, CSC outright rejected the Office's recommendation to lift this ban and significantly expand the use of computers. These decisions continue to be in effect today. Over the last decade, the Service's responses to the Office's many recommendations on learning and training have generally focused on exploring the feasibility of pilot programs (e.g. digital education environment, monitored email, tablets and laptops) and increasing partnerships with industries. To date, the Office's concerns and recommendations have not been addressed in any substantive, practical or meaningful ways.

Given the need to foster a robust learning environment, commitments made and implemented by CSC are not sufficient to meet the needs or demands for safer reintegration. The Service's shortcomings in the implementation of technological advances and providing access to up to date information, particularly in the education sector, leaves offenders returning to the community not optimally prepared for today's labour market. As such, the Office took an in-depth look at learning in federal penitentiaries in 2019-20 with the aim of better understanding the challenges and obstacles faced by offenders in accessing both education and vocational skills training programming. This investigation will also identify promising practices that better prepare offenders for today's job market.

The Office has a long history of reporting on learning and vocational training behind bars and has made several recommendations in the past decade:

1. **Computer Access:** Conduct a review of security, policy and procedural framework governing inmate access and contact with the outside world with a view to promoting and significantly expanding use of computers. (2011-12).
2. **Meaningful Work Opportunities:** Increase availability of apprenticeships and work releases. (2012-13 and 2018-19).
3. **Modernize CORCAN:** Re-tool CORCAN employment and employability program to focus on building capacity in vocational skills training in demand areas, including significantly increasing access to Red Seal trades and apprenticeships, as well as sales, marketing and information technologies. (2014-15).
4. **Action Plan on Meaningful Work:** Develop a three-year action plan to meet demand for meaningful work, increase vocational training skills and participation in apprenticeship programs. (2015-16).
5. **Special Study on Inmate Work:** The Minister of Public Safety request that the Standing Committee on Public Safety and National Security conduct a special study on inmate work and CORCAN. (2016-17).
6. **Internet Access:** Provide inmate access to monitored email and Internet, online learning and in-cell tablets. (2017-18).
7. **Post-Secondary Education:** Increase inmate access to pursue post-secondary studies through partnerships with local universities and colleges. (2017-18).
8. **Computer Skills:** Enhance computer skills training in vocational program delivery. (2018-19).
9. **Vulnerable Populations:** Report out on how the needs of vulnerable populations will be addressed in terms of employability. (2018-19).
10. **CORCAN Manufacturing:** Modernize the manufacturing sector to ensure it aligns with labour market trends. (2018-19).

## The Investigative Plan

The methods for this investigation employed the following components:

### 1. Examination of CSC Policies, Procedures, and Research

A review and assessment were conducted of CSC learning policies, services and interventions (i.e. the school and CORCAN operations) as well as relevant literature focussing on the impact of in-prison education and vocational skills training programming on correctional outcomes.

### 2. Individual and Groups Interviews with CSC Staff and Federally Sentenced Inmates

Individual and group interviews (voluntary and confidential) were conducted onsite with students participating in prison education programming and individuals working in CORCAN operations. Hearing directly from individuals engaged in either education or vocational training is important in giving them a voice with respect to the ways in which the programs could be improved for them. Interviews with students and workers provided perspectives on correctional education and vocational training that could only be revealed through their experience.

Interviews were also conducted with CSC staff working in both the education and vocational skills training sectors. The following groups of staff were interviewed: Teachers, Chiefs of Education, Vocational Instructors, Manager/Director CORCAN, Guidance Counsellors, Librarians and Employment Coordinators. All five regions were visited for this investigation which included thirteen institutions:

- **Ontario:** Collins Bay Institution, Beaver Creek Institution, and Warkworth Institution.
- **Quebec:** Federal Training Centre and the Special Handling Unit.
- **Prairie:** Stony Mountain Institution.
- **Atlantic:** Dorchester Institution, Atlantic Institution and Nova Institution for Women.
- **Pacific:** Fraser Valley Institution, Mission Institution, Mountain Institution and Matsqui Institution.

In total, individual and group interviews were conducted with 75 federally sentenced individuals and 41 CSC staff members.

## WHY PROVIDE INMATES WITH LEARNING OPPORTUNITIES BEHIND BARS?

- Participation in education programming can decrease institutional misconduct (violent misconduct in particular).
- Involvement in correctional education, vocational training and apprenticeship programs decreases recidivism. A CSC evaluation found that offenders who completed at least one education program level presented a 75% decrease in the rate of conditional release failure for a new crime compared to offenders who had a need for education but were not assigned to an education program.
- The more education, the greater the impact on recidivism.
- CSC research shows that offenders who were employed in the community, regardless of institutional employment participation, are almost three times less likely to be revoked with a new offence than those who are not employed.
- Offenders participating in education or vocational training are more likely to find employment after incarceration. CSC research found that offenders employed with CORCAN were 1.09 times more likely than offenders employed in non-CORCAN institutional employment and 1.37 times more likely than offenders not institutionally employed to obtain a job in the community, even after controlling for important risk factors.
- Offenders employed with CORCAN are more likely to be granted early release (day parole). CSC research found that 61% of offenders employed with CORCAN were granted day parole, compared to 41% of offenders employed with non-CORCAN institutional employment and 51% of offenders who were not employed in the institution.
- Participants in education report improved relationships with their families.
- Children of offenders participating in education were more motivated in their schooling.

**Sources:** CSC. (Jan. 2014). *Outcomes for offender employment programs: Assessment of CORCAN participation.*

CSC. (Feb. 2015). *Offender education programs and services.* Evaluation Report.

Erismann and Contardo, (Nov. 2005). Learning to reduce recidivism: A 50-state analysis of postsecondary education policy. *The Institute for Higher Education Policy.*

Esperian, (Dec. 2010). The effect of prison education programs on recidivism. *The Journal of Correctional Education, 61(4).*

Pompaco, Wooldredge, Lugo, Sullivan, and Latessa, (2017). Reducing inmate misconduct and prison returns with facility education programs. *Criminology and Public Policy, 16( 2).*

Prison Studies Project. *Why Prison Education?*

Vera Institute of Justice. (Jan. 2019). Investing in futures: Economic and fiscal benefits of postsecondary education in prison.

## Finding 1: CSC Learning Policy Outdated

The policy framework supporting both education and vocational skills training, though relatively recent (between 2105 and 2018), needs to be updated. The focus of CSC's education policy (CDs: 720: *Education Programs and Services for Offenders*, 720-1: *Guidelines for Education Programs*) is narrow: to offer individuals the ability to attain a high school education. The policies only refer to post-secondary education in terms of allowing those with a diploma to upgrade high school credits and identifying that it is the responsibility of inmates, except in exceptional circumstances, to fund their own post secondary education. According to policy, once an individual has completed their high school diploma or its equivalent, CSC is no longer required to assist offenders in their pursuit of education. While policy indicates that post-secondary education can be included in an inmate's correctional plan, this does not mean CSC will provide any additional assistance and several individuals indicated during interviews that they faced obstacles getting this added to their correctional plan. The policies are also silent on innovative learning technologies and eLearning and while they speak to identifying those with learning challenges, providing reasonable accommodations and establishing an Individual Education plan, the lack of requirements for formal training for instructors makes these obligations difficult to implement in practice.

The policy suite on employment and employability (CD 735: *Employment and Employability Program and Employment and Employability Strategy for Offenders*), while also recently updated, does not fully support the acquisition of marketable skills. The policy does not adequately address the need to ensure that prison employment opportunities match current labour market trends and where the policies speak to this, it is simply about making tweaks around the edges to support the employability program. The strategy focuses exclusively on the current suite of vocational training programs that are offered and not on how CORCAN needs to update, adapt and change to meet the demands of today's job market. There is no mention of innovative technologies or ways of enhancing digital/computer skills training in vocational program delivery. The policy and strategy, taken together, essentially maintain status quo rather than advance employment skills.

In terms of inmate computers, there does not appear to be policy related to updating and upgrading either the hardware or software of the computers used by inmates. The only policy that is relevant is found in CD 566-12: *Personal Property of Offenders* which offers some insight into how outdated the policy is with respect to inmates and computers. Though updated in 2015, CD 566-12: *Personal Property of Offenders* still refers to "floppy diskettes" as a means of saving documents, a medium that was phased out in the mid 1990's. For those who do not have a personal computer in their cell, they are allowed "...five computer floppy diskettes." For those lucky enough to have a grandfathered computer in their cell<sup>45</sup>, they are allowed twenty floppy disks. CD 566-12, Appendix D, refers to the software that is permitted on inmate-owned computers. It includes Microsoft DOSTM, Microsoft Windows up to and including Windows 98™, Windows 98 SE and ME and entry level Office Suites (e.g., Microsoft Office 97, WordPerfect, Microsoft Works). This software is two decades out of date. The technological platform that supports the stand-alone inmate computer network is equally obsolete.

<sup>45</sup> An October 2002 decision prohibited offenders from bringing a personal computer into a federal institution but allowed those who already had one to keep it. At this point, there likely only remain a handful of computers inside institutions, most of which would be found in minimum security institutions.



Policies related to learning need to be updated and expanded to include education and skills that are necessary for the current job market such as post-secondary education and technological/computer skills. The policies need to be updated to include new technologies that facilitate learning anywhere and at any time. The policies must have a focus on moving individuals beyond the most basic requirements to ensure they are well prepared to return to the community. The two policies must also be more closely linked ensuring close partnership between education and vocational skills training. There is currently nothing in policy to highlight overlap where skills required on the jobsite can be taught in the education program (e.g. technical math). CSC policy in this area must clearly recognize the fact that job creation has primarily been in industries that require some post-secondary education or training and that the share of jobs in industries that historically have not required any post-secondary training has diminished considerably.

## Finding 2: Outdated Technology Presents a Significant Challenge

The most significant challenges reported by both staff and offenders were out-dated technology, lack of Internet access, and a misguided focus on security. Computers are a rare commodity in federal institutions, with a few standalones available in the library or other designated area.<sup>46</sup> Inmate computer networks are loaded with material maintained by CSC. It runs on outdated software (e.g., WORD and Excel from 2003 and Encarta and the Encyclopedia 2012) and still uses floppy disks. Inmates are not permitted to save their work on a shared drive, USB or even a CD. Floppy disks are the primary means to save documents for inmates, a medium that is unreliable, prone to corruption and no longer manufactured, except through special order. Another example of archaic technology is the Digital Reference Library (DRL). The DRL, updated on inmate computers quarterly, is essentially the only technology-based platform available to those behind bars to access information. The reference library includes categories of information such as:

- General information (CSC Mission, priorities and planning reports)
- Relevant legislation
- CSC documents related to: policy, offender redress, Health Services, CORCAN, and the National Catalogue for Inmate Personal Property
- Office of the Correctional Investigator (OCI) reports
- Parole Board of Canada information
- External relevant reports
- Information for self-represented litigants

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<sup>46</sup> Access to the library is often restricted to only a few inmates at any one time and the hours of operation are limited to only a few hours each week.

This is the only reference material available to inmates outside of books found in the library and a few newspapers/magazines. This is the simplest technology-based solution to provide access to information and learning. There is no interactive content, no learning modules and no ability to create/save documents or communicate and share documents with others (e.g. teachers, parole officers, grievance officers). Most resources are not complete or kept up to date. A lot of effort and resources are expended in supporting and maintaining a policy framework, infrastructure and technological platform that is obsolete, anachronistic and depriving.

Nearly a decade has passed since the Office first recommended the expanded use of computers and access to the outside world. Since then, one of the only technology-based solutions piloted by CSC is *Desire to Learn* (D2L). D2L is a digital learning environment, used in the community, where individuals can access learning resources using a computer. D2L can also be used by teachers to create a more dynamic and interactive learning environment as well as colleges and universities to offer online courses (e.g., Durham College currently offers nearly 1,000 different online courses via D2L in the community ranging from Business to Apprenticeship Mathematics). While this is a very promising initiative, as mentioned, it is currently limited to one institution and available on computers that are located in the school classrooms which operate during business hours only and require a pass to access. Other examples of technology-based programming implemented by various institutions include the following:

- **The Autodesk 3D Design** provides individuals with certification in 3D Computer Aided Design. Thirty students from Bath Institution School have achieved this certification, which can help them attain employment upon release.
- **Computer Skills Training (IC3)** – The IC3 is a global benchmark for basic computer literacy, including operating systems, hardware, software, and networks. The delivery of IC3 (Internet Core Competency Certification) is currently offered at Saskatchewan Penitentiary (medium), Bowden Institution (medium), Stony Mountain Institution (medium), and Drumheller Institution (medium).
- **Computer Credits/Certifications** – In partnership with CORCAN and Information Management Services (IMS), the Ontario region allows offenders to upgrade their computer skills and earn community-based certifications through Microsoft, AutoCAD and others.
- **Web Design** – The Grand Valley Institution for Women (multi-level) has collaborated with Canada Learning Code to offer a 1-day workshop and a 13-session course on web page design, specifically teaching offenders how to code in HTML and CSS.

These initiatives are essential to upgrading an individual's skills and knowledge that will better prepare them for today's labour market, however they need to move beyond the pilot stage to being implemented in all institutions and accessible to all who wish to pursue education and vocational training.

Outdated technology is not the only challenge. The lack of Internet access seriously restricts post-secondary options as most colleges and universities have moved to online learning. Only a handful continue to offer paper-based correspondence courses. It also limits high school course options where access to the Internet could facilitate learning in chemistry, biology or physics; subjects which are not currently offered behind bars. Inmates are information deprived with the lack of updated reference material available to them. We heard from inmates who described situations where they relied on family to provide updated and accurate information to them so they could complete a school assignment or participate in post-secondary studies.

- One individual asked their brother to do research on the Internet and then they would quickly take down notes over the phone. This individual reported spending a lot of money on phone calls in order to get the reference material needed to complete a high school education.
- Another reported asking a partner to conduct research, print it off and mail it to them so they could complete their post-secondary studies.
- A third individual reported participating in post-secondary education over the phone with their grandmother. The individual would tell their grandmother what to do and write and she would complete the work online. Telephone costs were extremely high for this individual.

It seems inconceivable that current information is not available to those pursuing educational advancement behind bars. CSC is so far behind the community standard that it seriously puts into question its legal obligation to prepare and assist offenders for release.

Staff also discussed several roadblocks to updating technology or accessing online learning content that were based on a “security first” response rather than advancing learning. We heard that CSC’s Informatics group consistently challenged any attempt to update computers or software. For example, education staff reported purchasing new computers, however before they could be put into use, they require a security case. Security cases that were initially approved by the Informatics group were purchased by the Education group only to find out that when they arrived, the Informatics group refused to use them because they were “not good enough”. Similar to other aspects of prison life, security trumps innovation. It is time that the Service move into the 21<sup>st</sup> Century in terms of upgrading technology and allowing inmates restricted access to the Internet and email.

Outdated technology was also an issue for CORCAN where some machines were very old and no longer used in the community. Training on these machines was essentially futile, a make-work program. Security issues and costs have long been identified as reasons why the Internet cannot be offered to those serving time in federal penitentiaries. While CSC has refused to introduce technology and restricted Internet access, some provincial jurisdictions (e.g., Edmonton Remand Centre, Northeast Nova Scotia Correctional Centre and Southwest Nova Scotia Correctional Facility) have provided inmates with access to tablets. Tamper-proof tablets can allow inmates to:

- Exchange email with people on an approved list of contacts.
- Use video conference to connect with family and friends rather than waiting to use a telephone in an area that barely provides privacy.
- Download games, music, movies and books from a limited selection.
- File grievances.
- Access a law library.
- Take education and job training courses.
- Participate in correctional programming.

The tablets are not connected to the Internet, but rather to an on-site server that provides access to selected content. The technology exists to facilitate restricted access to Internet content, email, and video conferencing, and while CSC reports that it is “exploring options”, this exploration phase has been going on for many years at this point. Today’s economy is based on constant connectivity. Providing inmates access and training on modern technology and Internet services will better prepare them for release. Everything from applying for jobs to accessing government services are offered online. Employers are looking for individuals with technology skills and this is projected to increase over the coming years. Technological knowledge is a necessity for those coming back into the community, particularly for longer-serving individuals. CSC’s resistance to updating and upgrading anything technological related must change where both the education program and CORCAN require a significant overhaul in order to be brought into the 21<sup>st</sup> Century.

### Finding 3: Inmates are Not Acquiring the Skills Required for Today’s Economy

In today’s economy, a high school education is hardly sufficient to obtain stable and meaningful employment or a job that will pay more than minimum wage. A high school diploma is a minimum requirement and often not nearly enough to compete in today’s technologically advanced job market. The challenge of pursuing higher education while behind bars was reported by both teachers and offenders. It was disappointing to hear from a few teachers that they had been discouraged, some even used the word ‘threatened’, from senior management from assisting offenders with post-secondary education as it was considered outside the mandate of the education program. Incredibly, one senior CSC staff member stated: “I was afraid of bringing the Walls to Bridges Program<sup>47</sup> because I was worried it would be too much work, but then an inmate put in a complaint and we had to do it.”



Classroom – Stony Mountain Institution

<sup>47</sup> Walls to Bridges is a program that brings college/university instructors into the institution with their students from the community to teach classes.

The Walls to Bridges program is funded entirely by the university/college offering the course and only requires CSC to provide classroom space and screen community students coming into the institution. This was in stark contrast to an institution where a teacher had been assigned to help students navigate post secondary education. Support for post secondary education varied across institutions where some stuck strictly to the mandate and policy and others provided significant assistance.

Those wanting to pursue post secondary education face several obstacles in attempting to advance their level of education, the most significant of which was the lack of Internet access. Very few colleges and universities offer paper-based correspondence courses. Most are now online and out of reach to those without Internet access. Moreover, while a few institutions have partnered with post secondary institutions to offer the Walls to Bridges Program, it is offered at just a few institutions across the country and only offers one or two courses a couple of times each year. Students also reported challenges financing their post-secondary education. Offenders must fund their own post-secondary education which is difficult given the challenges associated with applying for government grants<sup>48</sup>, only a very few bursaries are available through universities/colleges, inmate pay has not changed in over thirty years and deductions have increased leaving very little for post secondary education. It is clear that pursuing anything beyond high school behind bars is challenging. There are only a handful of individuals in any one institution pursuing post secondary education and often with limited to no assistance from CSC.

## PROMISING LEARNING OPPORTUNITIES AT CSC INSTITUTIONS

1. **Walls to Bridges:** The Office reported on the Walls to Bridges program in its 2017-18 Annual Report. At that time, the program was operating at Grand Valley Institution. Educators are trained through a 5-day instructor course and facilitate classes inside institutions that are equally composed of students from the university and the prison. Classes place an emphasis on equality among incarcerated and community students and instructors in order to promote an inclusive environment. The program has been expanded to other institutions including a men's medium security institution (Warkworth).
2. **Book Club:** Some institutions that were visited for the investigation conducted a monthly book club. One institution had brought in the author of one of the books the group had read to facilitate a discussion on the book.
3. **Debate Club:** A university professor taught individuals at Collins Bay how to debate. The debate sessions ended with a final debate where others were invited to watch.

<sup>48</sup> Offenders are eligible to receive the Canada Part-Time Studies Grant, however they need a recent tax return and a copy of their Social Insurance Number Card or official letter to apply. Some offenders do not have these and need assistance in acquiring them.

4. **Ma plus belle histoire:** A teacher at Donnacona institution encouraged students to participate in *Ma plus belle histoire* writing contest for adult students in Quebec. Fifty of the top writing samples would be chosen and published in a collection. Seven students from Donnacona participated and three submissions from Donnacona were selected for the 2018-19 collection.
5. **Poetry Workshop:** A teacher at Donnacona institution facilitated a poetry workshop that was taught by a Quebec novelist. The session ended with participants reading their poems to others.
6. **Literacy Group:** At Warkworth institution, tutors were trained and facilitated sessions for individuals learning to read or improving their reading level. The room was filled with books and resources specific to learning to read at various levels.
7. **Inmate tutors:** Some of the institutions visited for the investigation had an inmate tutor assigned to each education class. Hiring inmate tutors provided students with one-on-one assistance as well as meaningful and rewarding work.
8. **Partnership between Education and CORCAN:** The welding program at Collins Bay requires participants to be proficient in the use of technical math concepts. CORCAN staff approached the education staff to facilitate technical math classes for those interested in participating in the welding program.
9. **CORCAN staff at Collins Bay** regularly review community job postings for welders to ensure their workers are equipped with skills necessary to obtain a job upon release. Recent job postings asked for skills related to reading blueprints so staff enhanced their program to include this.
10. At Matsqui Institution an inmate had started a project to collect information from across Canada (and the U.S.) regarding post-secondary **correspondence courses** and available bursaries. The information is intended to be a resource for inmates who are interested in pursuing post-secondary education. This project had recently been submitted to CSC for support.



### Challenges in Acquiring Marketable Vocational Skills

It is equally difficult to obtain job-ready or marketable vocational skills, even for those working in CORCAN. While we saw some CORCAN shops that were indeed providing workers with relevant, sought-after skills, it was also evident that too many workers were toiling day after day gaining very few skills that would assist them in obtaining a job. Though CSC staff discussed the “soft skills” (e.g., dependability, working with others, problem-solving and conflict resolution) that individuals learn in jobs that provided few marketable skills, many also confided that prison industries effectively fill an individual’s time rather than provide a useable skillset. This, along with the elimination of incentive pay, made it difficult to recruit workers in CORCAN industries. Few wanted to work all day in CORCAN jobs that were physically demanding, provided limited skills and were paid the same amount that a range cleaner makes, a position that requires far less investment in time or motivation.

Two CORCAN shops in particular stood out as leaders in terms of preparing individuals for release to the community. The welding program at Collins Bay is an accredited school that not only offers welding training, but also logs workers’ hours toward an apprenticeship. Collins Bay offers all three levels of welding which includes classroom time, welding training and production work. Workers are registered with the provincial ministry as an apprentice and over time, can work toward their Red Seal in welding. Matsqui Institution offers workers a construction program where they are registered with the provincial ministry as an apprentice and all hours are logged toward a construction apprenticeship. Workers build modular buildings and gain experience in a number of different construction trades (e.g., carpentry, plumbing and electrical).



CORCAN welder training – Collins Bay Institution



CORCAN welder training – Collins Bay Institution





Clothing materials – Warkworth Institution



Photo of completed moccasins at CORCAN in Pacific Region



Completed mittens – Warkworth Institution

While both of these CORCAN shops are extremely promising, capacity was limited. Currently, just 6.3% (861) of offenders are engaged in a CORCAN industry.<sup>49</sup> The welding program at Collins Bay had capacity to employ ten inmates for level 1, five to six for level 2 and two to four for level 3 (maximum of 20 workers). In reality, the actual number of individuals participating is often much lower.

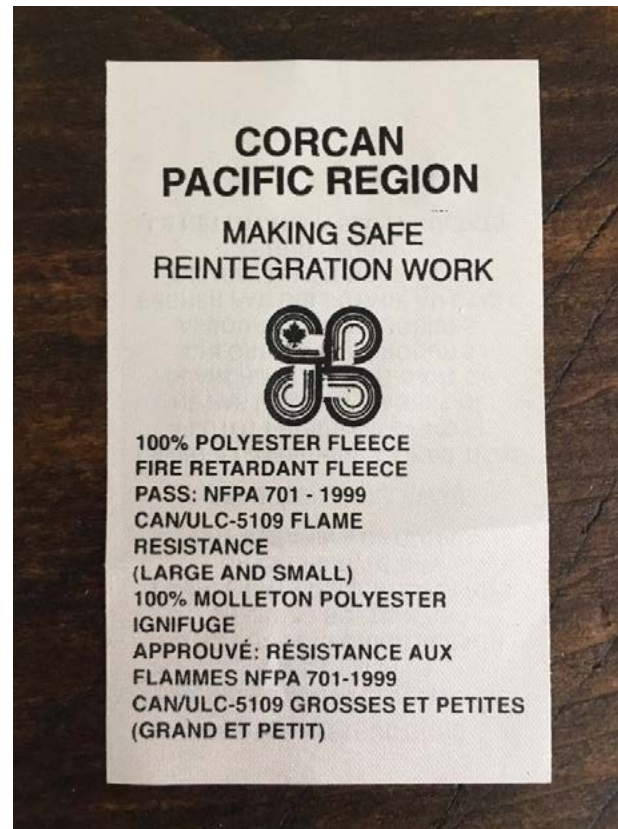
At the time of the Office's visit, the program had eight enrolled in level one and two in each of levels two and three (12 workers in total or 60% of the maximum capacity). The construction program at Matsqui had capacity for five workers and at the time of the Office's visit, five were employed. In 2017-2018, a total of 567 offenders were registered as apprentices in various trades (e.g.; among others apprenticeships include trades such as: welder, electrician, culinary, cabinet maker, and plumber).<sup>50</sup> These numbers are not nearly sufficient to meet the demand for vocational skills training. Investigators also heard how production was sometimes prioritized over training for apprenticeships. CORCAN shops are not only training facilities but they must also ensure they meet production numbers for clients. This push toward production often frustrated workers as it prevented them from participating in classroom training and acquiring new skills.

<sup>49</sup> CSC Data Warehouse, April 26 2020.

<sup>50</sup> CSC (2017-18). *Employment and Employability Results Report*.

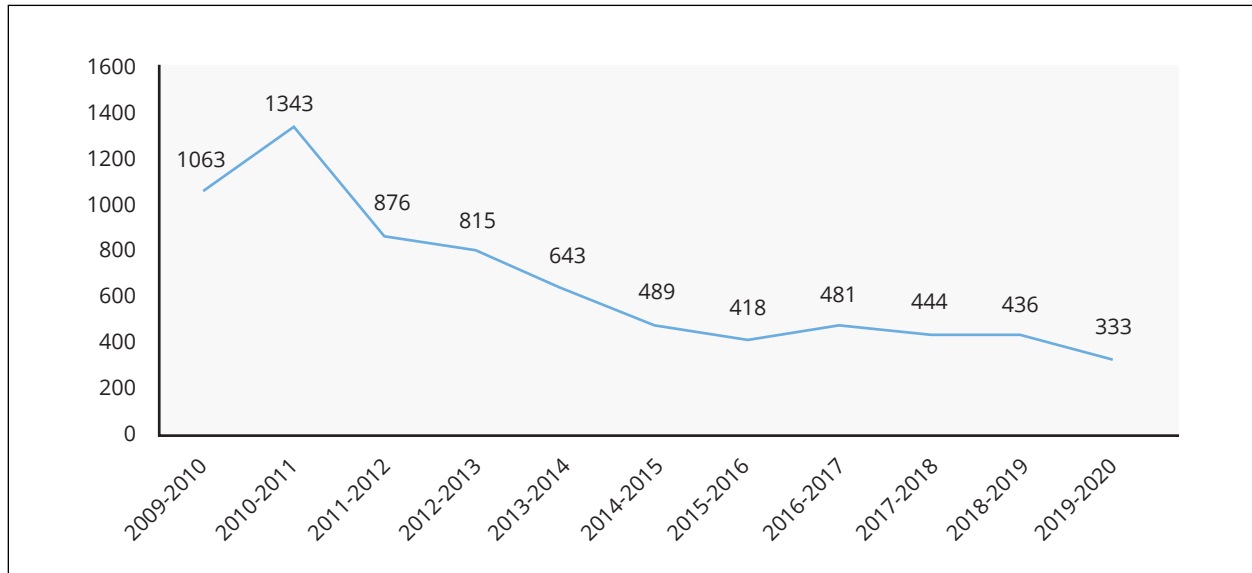
By contrast, other prison industries were offering job opportunities that were not at all in tune with today's job market or were strongly rooted in gender stereotypes. We visited some CORCAN shops that offered textile jobs consisting of sewing, manufacturing jobs using out-dated machines or tools that provided no official certificates (e.g., table saw), paint shops and small engine repair which provided no official recognition or certificates. As one individual stated, "I am not learning very much. I have been running a sewing machine for the better part of 3 years." It is concerning that the majority of offenders who were interviewed for this investigation working in CORCAN, were learning very few skills that would benefit them in obtaining a job in the community. While manufacturing is one of Canada's most important economic sectors, it requires a skilled, knowledgeable and innovative workforce (e.g. designers, researchers, programmers, engineers, technicians and tradespeople). For the most part, these are not the kind of skills or competencies encouraged or taught in CORCAN manufacturing shops. We heard from a number of inmates that their job simply helped them pass the time. As one individual stated, "...instead of sitting doing nothing, I'd rather work, kill my time. Time goes by fast from morning to the afternoon. During the weekend we stay in the range so time is slow. I would like to do overtime on the weekends." Another stated that, "there's no experience as far as trades or anything like that here. There just isn't anything. A lot of people I'm hearing from say I get to the gate (referring to being released), and I don't have those skills and monetary backing, and I have to make some money, so I gotta sell drugs to make some money in the interim, get caught, and end up back in."

Finally, work releases, which are one of the more promising employment opportunities for inmates, have been trending downward for a decade. Work releases offer individuals an opportunity to return to the community to participate in employment and gain important skills that have the potential to lead to a job upon release.



Clothing tag – CORCAN Pacific Region

## Number of work releases: 2009-10 to 2019-20



It was particularly disappointing to see that CORCAN work options offered at women's sites were grounded in gendered roles and expectations, including jobs and training in areas such as sewing, floral and jewellery design and wool shearing. In 2017-18 for example, for women offenders, most CORCAN employment opportunities were within the Textiles Business Line (83.5% (197)). Assignments in the construction business line and in the manufacturing business line represented 15.3% (36) and 1.3% (3) of CORCAN assignments for female offenders.<sup>51</sup> We heard from women who reported wanting more options that were not "so feminized," opportunities other than construction such as accounting, office administration, computer training and residential/business painting.<sup>52</sup>

<sup>51</sup> CSC (2017-18). *Employment and Employability Results Report*.

<sup>52</sup> CSC reports that since the fall of 2017, CORCAN has been working to broaden the employment training at women offender sites. This has resulted in the implementation of training related to construction skills and on the job employment assignments at all women offender institutions.

## Finding 4: CSC's Performance Indicators Drive Waitlist Prioritization

Limited space means that some institutions have lengthy waitlists for both education and vocational skills training programming. In terms of prioritizing individuals on an education or vocational training waitlist, the policy varies slightly. According to CD 720-1: *Guidelines for Education Programs*, participation, for non-Indigenous men offenders, is prioritized in the following order those who cannot communicate proficiently in either official language and require English or French language training, inmates with low to moderate reintegration potential and require Adult Basic Education (ABE) level III or IV (including Adapted ABE III or IV), inmates with low to moderate reintegration potential who require ABE I or II (including Adapted ABE I or II), inmates with high reintegration potential who require Adult Basic Education programming (including Adapted ABE), and inmates who require other education programs. Those with short sentences (four years or less) are also prioritized.<sup>53</sup> CD 735: *Employment and Employability Program* states that employment and employability assignments are based on having an identified need and length of time until release which means that the closer an individual is to their release date, the more likely they will be assigned.

While this appears to be a reasonable approach, in practical terms, CSC staff indicated that individuals can be moved down the waitlist to maximize the number of individuals that are offered at least one program prior to their release date. The exercise appeared to be akin to ticking boxes. In its *Departmental Results Report*, the Service sets a target of ensuring that 54% to 64.8% of offenders with an identified need for an upgrade to their education have upgraded and 58.2% to 60.5% of offenders with an identified need for vocational training have

completed their programming prior to their first release. Teachers explained that, though not in line with policy, CSC's performance targets are sometimes factored into who is assigned to education programming. For example, one teacher described how one individual, with a significant education need, was moved down the waitlist because he had taken a boating course. Incredibly, it counted as one course completion prior to first release. It was not clear to anyone how a boating course would assist in acquiring employment upon release.

Staff were also frustrated that individuals would be taken out of school to complete mandatory correctional programming. We heard how inmates with low literacy levels or who had a limited ability to speak the official language were removed from school to take correctional programming. While CD 705-6: *Correctional Planning and Criminal Profile* prioritizes correctional programming over education and employment, CD 720: *Education Programs and Services* states that English/French programming should be prioritized and that a functional literacy level is required to participate in correctional programs. Again, it appears that meeting the Service's performance targets was the priority, which helps to explain 83.3% of offenders with an identified need for a nationally recognized correctional program have completed this requirement prior to release. Program assignments should not be based on ensuring performance indicators are met, but rather on need and ensuring individuals returning to the community have completed as many relevant interventions as possible.

<sup>53</sup> For women and Indigenous men offenders, reintegration potential is not taken into consideration when prioritizing for participation in education programs; otherwise, these offenders are prioritized the same.



## Finding 5: Little is Done to Formally Accommodate those with Learning Disabilities

CSC teachers and vocational instructors reported that the majority of their students and workers have a disability or barrier that impedes learning (e.g. Attention Deficit Hyper Activity Disorder, language, substance abuse or a mental health issue). While funding has recently been made available at the regional level to have offenders tested for learning disabilities, we found that some teachers were not aware of this funding and even when a formal diagnosis is available, there are few resources in place to accommodate aspiring learners. One teacher reported using “low-tech” solutions to help individuals who were experiencing learning difficulties while another stated that “...it’s guess work. I’m far from an expert on that.” Similarly, CD 735: *Employment and Employability Program* requires CSC to ensure that “... physical and mental health are taken into account in the employment and employability programs”. Vocational instructors similarly reported using basic accommodations, such as providing additional time to complete tasks, as there were few other learning or instructional aids available.

Overall, both teachers and vocational instructors reported doing their best to accommodate individuals often without the knowledge of a formal diagnosis and using the very limited tools and resources available to them. Examples of accommodations included providing extra time to accomplish assignments, providing additional instruction, offering the assistance of an inmate tutor and allowing for frequent breaks. Teachers reported wanting resources like reader pens and audio resources to improve their ability to accommodate students, however these requests have been denied. Most teachers and vocational instructors that were interviewed had no formal training in learning disabilities and had received no training in their role at CSC. One teacher with a background in special education suggested that all CSC teachers should have training in special education and/or assisting those with learning disabilities. This seems reasonable given the profile of students behind bars.

## Finding 6: Access to Necessary Tools and Resources Often Challenging

Access to appropriate tools and resources is essential for successful completion of any type of education or vocational skills training program. Both CSC staff and students reported lacking some of the basic tools necessary to complete their work. For example, items such as pencils, pens, paper, pencil sharpeners, recorders and headphones were often in short supply or not available at all. These findings are concerning given that CD 720: *Education Programs and Services for Inmates* states that classrooms are to be equipped properly. Students and teachers also reported that the education materials were so out of date that some textbooks came with a sheet of corrections which updated the material and that students requiring eye glasses often waited a significant amount of time before acquiring a pair.

The library was by far the most cited resource that teachers and students wanted improved access. Investigators consistently heard about out dated collections of books, the lack of books and limited library hours. In touring several of the libraries, investigators were easily able to corroborate the information heard during interviews. It was not uncommon to see long empty shelves, educational resources that were extremely out dated, shelves containing mostly novels for pleasure reading and libraries that were closed during the day or limited the number of individuals that could be inside at one time. CD 720: *Education Programs and Services for Inmates* states that library services must be made available in all institutions, provided with resources, support all institutional programs, address inmates’ needs for computer literacy, recreational, cultural, religious, spiritual, educational, legal and informative materials. Clearly, some CSC run libraries are falling short of providing the resources set out in its own policy.

We consistently heard about the overly complicated process to access the library. When a student wants to visit the library, they must first put in a request that identifies the reason for the visit. Once the request has been submitted, it usually takes at least two weeks to receive a response which identifies a day and time that the library visit will occur. It should be noted that each request is also prioritized on the basis of need, so for example, if one individual wants to look for a new book to read, but another needs to do research for a school project, it is likely that the school project will take precedence given there are only so many hours each week (not even each day) that the library is open.

## Conclusion

According to the *Corrections and Conditional Release Act*, one of the main purposes of CSC is 3(b) “assisting the rehabilitation of offenders and their reintegration into the community as law-abiding citizens through the provision of programs in penitentiaries and in the community”. While the Service offers a number of programs, including education and vocational skills training, the current complement of learning opportunities does not and cannot provide effective rehabilitation or reintegration, particularly given the current lack of focus, outmoded technological capacity and limited resource allocation. Funding must be increased in targeted areas, and policies need to be updated and expanded to include education and access to skills, especially digital literacy, that the current job market demands.

## Correctional Investigator's Outlook for 2020-2021

The COVID-19 crisis continues to pose an unprecedented challenge for federal corrections. It is difficult to say with any certainty what lies ahead as we adapt to the "new normal" of our lives. Writing this outlook for the year ahead in the middle of a pandemic I hesitate to identify new projects and undertakings for my Office in 2020-21.

Assuming a gradual return to work and resumption of prison visits, I remain committed to advancing systemic investigations. As indicated in the National Issues section of my report, a specific focus of this work will be to conduct and report on systemic and thematic investigations in the area of Indigenous Corrections. These investigations are intended to examine the use and effectiveness of some of CSC's signature programs in the Indigenous Continuum of Care. We will also endeavour to include a close look at use of force incidents involving Indigenous inmates, particularly those with serious mental health issues and women who self harm.

My Office also plans to further explore our role and function in an inspection capacity. This is consistent with Section 174 of the *Corrections and Conditional Release Act*, which confers the right to enter and inspect federal penitentiaries and "carry out therein any investigation or inspection." Over the past year, we have done some preliminary work to identify how inspection activities could complement our investigative mandate. We intend to take this work forward into 2020-21.

In closing, I want to express gratitude to my international colleagues and partners in external prison oversight. I especially want to highlight the important contribution of the Expert Network on External Prison Oversight and Human Rights, which published a Special Issue of our newsletter on April 20, 2020. Entitled *Adapting to COVID-19: Prison Oversight and Monitoring during a Pandemic*, the exchange of information and sharing of best practices from partner countries helped us navigate uncharted waters. As I wrote in my introduction to the Newsletter, "The business of prison oversight is challenging at the best of times, but this pandemic has forced us to maneuver and adapt in unprecedented ways. We are learning that during a pandemic situation, when access to penal environments is severely or completely limited, it is more important than ever to ensure that external monitoring continues."



Cover of the Expert Network on External Prison Oversight and Human Rights, Special Issue newsletter.

In the year ahead, through changing and challenging circumstances, as a prison oversight body my Office will continue to provide an essential and critical public service.



## Ed Mclsaac Human Rights in Corrections Award

The Ed Mclsaac Human Rights in Corrections Award was established in December 2008, in honour of Mr. Ed Mclsaac, long-time Executive Director of the Office of the Correctional Investigator and strong promoter and defender of human rights in federal corrections. It commemorates outstanding achievement and commitments to improving corrections in Canada and protecting the human rights of the incarcerated.

The 2019 recipient of the Ed Mclsaac Human Rights in Corrections award was George Myette, the National Executive Director of the Seventh Step Society, and the Director of the National Associations Active in Criminal Justice (NAACJ).



Left to Right: Marie-France Kingsley, George Myette, Ed Mclsaac, and Dr. Ivan Zinger.

## Annex A: Summary of Recommendations

1. I recommend that the Minister of Public Safety establish an independent expert working group to guide implementation of the Office's current and past recommendations on education and vocational training in federal corrections. This work should include timelines and clear deliverables.
2. I recommend that the Minister of Public Safety introduce, in the next year, a legislative package that endorses a zero-tolerance approach to sexual violence in federal corrections and establishes a public reporting mechanism for preventing, tracking and responding to these incidents, similar to the *Prison Rape Elimination Act* in the United States.
3. I recommend that the Minister of Public Safety jointly with the Minister of Justice and Attorney General of Canada strike an expert Committee to deliberate on the ethical and practical matters of providing MAiD in all places of detention, with the aim of proposing changes to existing policy and legislation. This deliberation should consider the issues brought to light by my Office, as well as the latest literature emerging from Canadian prison law and ethics. In the meantime, and until the Committee reports, I recommend an absolute moratorium on providing MAiD *inside* a federal penitentiary, regardless of circumstance.
4. I recommend that the replacement fleet of CSC escort vehicles be equipped with appropriate safety equipment for inmate passengers, including hand holds and seatbelts, and that any prototype vehicle be inspected by Transport Canada authorities before being put into production and service.
5. I recommend that CSC review *independent* Patient Advocate models in place in Canada and internationally, develop a framework for federal corrections and report publicly on its intentions in 2020-21 with full implementation of an *external* Patient Advocate system in 2021-22.
6. I recommend that CSC issue immediate instruction prohibiting the use of stun grenades in closed or confined spaces, including cells.
7. I recommend that dry cell placements exceeding 72 hours be explicitly prohibited in federal corrections.
8. I recommend that the Service develop a separate and specific Commissioner's Directive for incidents of sexual coercion and violence involving federal inmates, that describes in detail how *all* staff should respond when allegations of a sexual assault are made, or an incident is suspected of having occurred. This policy suite should also detail mechanisms for detecting, tracking, reporting, investigating and preventing such incidents. CSC should look to other jurisdictions who have developed comprehensive approaches to policy and practice (e.g., *Prison Rape Elimination Act*) as it relates to sexual assaults involving incarcerated persons.
9. I recommend the Minister of Public Safety directs that CSC designate funds for a national prevalence study of sexual coercion and violence involving inmates in federal corrections. The survey should be developed, conducted, and the results publicly reported on, by external, fully independent experts, with the experience and capacity to conduct research on this topic in a correctional setting.

10. I recommend that the Service develop an evidence-based strategy for the prevention of sexual coercion and violence involving individuals who are incarcerated, with specific attention to individuals or groups who are known to be at a heightened risk of victimization.
11. I recommend that, in the interest of staff and inmate safety, CSC develop a specific flag in OMS for perpetrators of institutional SCV and use this to inform population management strategies in order to mitigate potential risks and to keep vulnerable individuals (inmates and staff alike) safe.
12. I recommend that CSC develop and offer education, awareness, and training programs for *all* staff and inmates on sexual coercion and violence. Specific training on SCV should be provided to staff by certified experts in the field of prison sexual violence. Awareness programming on sexual violence should be provided to inmates upon admission to federal corrections.
13. I recommend that CSC conduct an external review of its Therapeutic Range resourcing model, and to ensure that bed capacity and staffing reflects the actual needs of Mental Health Services. This review should also consider the following improvements:
  - a. A therapeutic look and feel that incorporates more open spaces and yards with access to fresh air, shelter, and recreation; a dedicated programming space for both individual and group counselling; and easy and private access to health care facilities. Therapeutic Ranges should be placed away from the direct view of other inmates who are not residing on this range.
  - b. Greater reliance on dynamic security practices. This can be in part accomplished by implementing the *Therapeutic Unit Officer Pilot Program* at all Therapeutic Range Sites.
  - c. Dedicated complement of correctional and mental health staff, and access to Elders and Indigenous Services staff, commensurate with demand for these services on the Therapeutic Range.
  - d. Elimination of beds that employ the Pinel restraint system, i.e., "Pinel Beds", from Therapeutic Ranges.
  - e. Allows for cascading to lower levels of security within the unit, minimizing transfers where possible and appropriate.

## Annex B: Annual Statistics

**Table A: OCI Complaints<sup>54</sup> by Category and Resolution Status**

COMPLAINT CATEGORY / SUBCATEGORY	ACTIVE	RESOLVED	TOTAL
<b>ADMINISTRATIVE SEGREGATION</b>	<b>1</b>	<b>86</b>	<b>87</b>
Conditions	–	22	22
Placement/Review	1	63	64
Other	–	1	1
<b>CASE PREPARATION</b>	<b>1</b>	<b>89</b>	<b>90</b>
<b>CELL EFFECTS</b>	<b>8</b>	<b>373</b>	<b>381</b>
Canteen	–	22	22
Exchange	1	10	11
Pen Pack	–	68	68
Search and/or Seizure	–	33	33
Transfers	–	105	105
Other	7	135	142
<b>CELL PLACEMENT</b>	<b>3</b>	<b>62</b>	<b>65</b>
Double Bunking	–	24	24
Protected Custody	–	2	2
Unit/Range	2	20	22
Other	1	16	17
<b>CLAIMS AGAINST THE CROWN</b>	<b>1</b>	<b>40</b>	<b>41</b>
Decisions	–	13	13
Processing	–	23	23
Other	1	4	5
<b>COMMUNITY SUPERVISION</b>	<b>1</b>	<b>27</b>	<b>28</b>
<b>CONDITIONAL RELEASE</b>	<b>4</b>	<b>54</b>	<b>58</b>
Application	–	3	3
Conditions	–	13	13
Detention	–	3	3
Full Parole	–	1	1
Revocation	1	2	3
Suspension	3	18	21
Other	–	14	14

<sup>54</sup> The OCI may commence an investigation on receipt of a complaint by or on behalf of an offender, or on its own initiative. Complaints are received by telephone, letters, and during interviews with the OCI's investigative staff at federal correctional facilities.

COMPLAINT CATEGORY / SUBCATEGORY	ACTIVE	RESOLVED	TOTAL
<b>CONDITIONS OF CONFINEMENT</b>	<b>7</b>	<b>444</b>	<b>451</b>
Access to Showers	–	4	4
Health and Safety of Inmate Worksites	–	20	20
Lock-down	1	38	39
Recreation time	–	44	44
Sanitation/Cleanliness	–	11	11
Temperature	–	18	18
Other	6	309	315
<b>DEATH OF INMATE</b>	<b>–</b>	<b>3</b>	<b>3</b>
<b>DIETS</b>	<b>1</b>	<b>63</b>	<b>64</b>
Medical	–	13	13
Religious	–	27	27
Special Diets	–	14	14
Other	1	9	10
<b>DISCIPLINE</b>	<b>–</b>	<b>38</b>	<b>38</b>
Major Charges	–	7	7
Minor Charges	–	12	12
Procedures	–	14	14
Other	–	5	5
<b>DISCRIMINATION</b>	<b>–</b>	<b>35</b>	<b>35</b>
Disability	–	6	6
Gender	–	5	5
Race	–	13	13
Religion	–	3	3
Other	–	8	8
<b>EMPLOYMENT</b>	<b>2</b>	<b>59</b>	<b>61</b>
Access	–	9	9
Suspension	1	25	26
Other	1	25	26
<b>FILE INFORMATION</b>	<b>10</b>	<b>224</b>	<b>234</b>
Access	2	59	61
Correction	4	76	80
Other	4	89	93

COMPLAINT CATEGORY / SUBCATEGORY	ACTIVE	RESOLVED	TOTAL
<b>FINANCIAL MATTERS</b>	<b>4</b>	<b>111</b>	<b>115</b>
Access	1	47	48
Pay	–	23	23
Other	3	41	44
<b>FOOD SERVICES</b>	<b>1</b>	<b>65</b>	<b>66</b>
<b>GRIEVANCES</b>	<b>6</b>	<b>118</b>	<b>124</b>
Corrective Action	–	2	2
Decision	–	27	27
Procedure	3	73	76
Other	3	16	19
<b>HARASSMENT BY INMATE</b>	<b>–</b>	<b>13</b>	<b>13</b>
Sexual	–	2	2
Verbal	–	3	3
Other	–	8	8
<b>HARM REDUCTION</b>	<b>–</b>	<b>38</b>	<b>38</b>
Drug Strategy	–	9	9
Needle Exchange	–	1	1
Opiate Substitution Therapy	–	28	28
<b>HEALTH AND SAFETY</b>	<b>1</b>	<b>28</b>	<b>29</b>
<b>HEALTH CARE</b>	<b>19</b>	<b>619</b>	<b>638</b>
Access	7	198	205
Decisions	1	123	124
Dental	1	45	46
Hunger Strike	–	11	11
Medication	3	162	165
Other	7	80	87
<b>IMMIGRATION/DEPORTATION</b>	<b>–</b>	<b>2</b>	<b>2</b>
<b>INMATE REQUEST PROCESS</b>	<b>–</b>	<b>30</b>	<b>30</b>
Procedure	–	18	18
Response	–	4	4
Other	–	8	8
<b>LEGAL ACCESS</b>	<b>3</b>	<b>59</b>	<b>62</b>
<b>MAIL</b>	<b>2</b>	<b>125</b>	<b>127</b>



COMPLAINT CATEGORY / SUBCATEGORY	ACTIVE	RESOLVED	TOTAL
Delivery/Pickup	1	73	74
Seizure	–	3	3
Other	1	49	50
<b>MENTAL HEALTH</b>	–	<b>95</b>	<b>95</b>
Access	–	47	47
Decisions	–	12	12
Quality of care	–	15	15
Self-Injury	–	12	12
Other	–	9	9
<b>OCI (COMPLAINTS AGAINST)</b>	<b>1</b>	<b>54</b>	<b>55</b>
Alleged Reprisal from Contact	–	3	3
Decisions/Operations	1	25	26
Other	–	26	26
<b>OFFICIAL LANGUAGES</b>	–	<b>7</b>	<b>7</b>
<b>OUTSIDE COURT</b>	–	<b>9</b>	<b>9</b>
<b>PAROLE BOARD OF CANADA DECISIONS</b>	<b>1</b>	<b>116</b>	<b>117</b>
<b>PRACTICE OF SPIRITUAL OR RELIGIOUS OBSERVANCE</b>	–	<b>35</b>	<b>35</b>
<b>PROGRAMS</b>	<b>3</b>	<b>101</b>	<b>104</b>
Access	1	56	57
Decisions	1	25	26
Quality/Content	–	5	5
Other	1	15	16
<b>PROVINCIAL/TERRITORIAL MATTERS</b>	–	<b>13</b>	<b>13</b>
<b>RELEASE PROCEDURES</b>	<b>2</b>	<b>77</b>	<b>79</b>
<b>SAFETY/SECURITY</b>	<b>9</b>	<b>219</b>	<b>228</b>
Incompatibles/Other Offenders	–	120	120
Staff	5	38	43
Other	4	61	65
<b>SEARCH</b>	–	<b>29</b>	<b>29</b>
Dry cell	–	4	4
IONSCAN	–	7	7
Regular	–	10	10
Strip search	–	5	5
Other	–	3	3

COMPLAINT CATEGORY / SUBCATEGORY	ACTIVE	RESOLVED	TOTAL
<b>SECURITY CLASSIFICATION</b>	<b>6</b>	<b>122</b>	<b>128</b>
Initial	–	8	8
Review	2	86	88
Other	4	28	32
<b>SENTENCE ADMINISTRATION</b>	<b>3</b>	<b>26</b>	<b>29</b>
<b>SPECIAL HANDLING UNIT – NATIONAL REVIEWS</b>	<b>–</b>	<b>1</b>	<b>1</b>
<b>STRUCTURED INTERVENTION UNITS (SIU)</b>	<b>1</b>	<b>29</b>	<b>30</b>
Conditions	–	11	11
Placement/Review	–	6	6
Other	1	12	13
<b>STAFF</b>	<b>16</b>	<b>528</b>	<b>544</b>
Case Management	4	197	201
Correctional Staff	3	208	211
Management	1	17	18
Other	8	106	114
<b>TELEPHONE</b>	<b>7</b>	<b>172</b>	<b>179</b>
Access to a telephone	3	78	81
PIN	1	31	32
Use Suspension	–	6	6
Other	3	57	60
<b>TEMPORARY ABSENCE</b>	<b>–</b>	<b>51</b>	<b>51</b>
Compassionate	–	15	15
Escorted	–	31	31
Unescorted	–	5	5
<b>TRANSFER</b>	<b>10</b>	<b>342</b>	<b>352</b>
<b>URINALYSIS</b>	<b>–</b>	<b>18</b>	<b>18</b>
<b>USE OF FORCE</b>	<b>9</b>	<b>75</b>	<b>84</b>
<b>VISITS</b>	<b>4</b>	<b>196</b>	<b>200</b>
Cancellation/Suspension	–	44	44
Private Family Visit	2	62	64
Regular visits	1	41	42
Treatment of Visitors	–	7	7
Visitor Review Board Decision	–	8	8
Other	1	34	35

COMPLAINT CATEGORY / SUBCATEGORY	ACTIVE	RESOLVED	TOTAL
<b>VOLUNTARY LIMITED ASSOCIATION RANGE (VLAR)</b>	–	<b>1</b>	<b>1</b>
Placement/Review	–	1	1
<b>COMPLAINT CATEGORY TO BE DETERMINED</b>	<b>194</b>	–	<b>194</b>
<b>NOT ENOUGH INFORMATION TO ASSIGN CATEGORY</b>	–	<b>91</b>	<b>91</b>
GRAND TOTAL	341	5,212	5,553

**Table B: Cases and OCI's Days in Institutions by Region and all Institutions**

REGION / INSTITUTION	CASES	INTERVIEWS	DAYS IN INSTITUTIONS
<b>ATLANTIC</b>	<b>648</b>	<b>122</b>	<b>41</b>
Atlantic	273	52	11
Dorchester	194	33	11 <sup>55</sup>
Nova Institution for Women	68	23	12
Shepody Healing Centre	39	1	–
Springhill	74	13	7
<b>QUEBEC</b>	<b>1,150</b>	<b>242</b>	<b>83</b>
Archambault	143	21	10 <sup>56</sup>
Centre régional de santé mentale	11	0	–
Cowansville	97	22	7.5
CRR Québec	130	14	11.5 <sup>57</sup>
Donnacona	149	41	11
Drummond	91	9	10.5
Federal Training Centre	176	47	8.5
Joliette	157	25	6
La Macaza	63	23	8
Port-Cartier	109	35	9
Special Handling Unit - Unité spéciale de détention	22	4	–
Waseskun	2	1	1
<b>ONTARIO</b>	<b>1,072</b>	<b>225</b>	<b>106</b>
Bath	141	24	9
Beaver Creek	144	49	12
Collins Bay	148	22	13.5
Grand Valley Institution for Women	118	22	13
Joyceville	21	4	16 <sup>58</sup>
Joyceville Assessment Unit	139	15	–
Joyceville TD Unit	19	1	–
Millhaven	158	29	16 <sup>59</sup>
Millhaven Assessment Unit	1	0	–
Millhaven TD Unit	1	0	–
Regional Treatment Centre - Bath	2	0	–

<sup>55</sup> Includes Shepody Healing Centre.

<sup>56</sup> Includes Centre régional de santé mentale.

<sup>57</sup> Includes Special Handling Unit (SHU).

<sup>58</sup> Includes Joyceville Assessment Unit and TD Unit.

<sup>59</sup> Includes Millhaven Assessment Unit and TD Unit.

REGION / INSTITUTION	CASES	INTERVIEWS	DAYS IN INSTITUTIONS
Regional Treatment Centre - Millhaven	18	9	16 <sup>60</sup>
Warkworth	162	50	10
<b>PRAIRIES</b>	<b>1,393</b>	<b>268</b>	<b>66.5</b>
Bowden	151	35	8
Buffalo Sage Wellness House	2	0	1
Drumheller	147	22	5
Edmonton	327	71	16
Edmonton Institution for Women	81	12	8.5
Grande Cache	96	10	4.5
Grierson	8	4	2
O-Chi-Chak-Ko-Sipi Healing Lodge	0	1	0
Okimaw Ohci Healing Lodge	10	0	1
Pê Sâkâstêw Centre	7	0	0
Prince Albert Grand Council Spiritual Healing Lodge	9	0	1
Regional Psychiatric Centre	144	31	3.5
Saskatchewan	272	38	7
Stan Daniels Healing Centre	3	0	2
Stony Mountain	124	44	6
Willow Cree Healing Lodge	12	0	1
<b>PACIFIC</b>	<b>1,025</b>	<b>275</b>	<b>58</b>
Fraser Valley Institution for Women	126	27	12.5
Kent	172	40	10
Kwîkwèwêlhp Healing Village	2	0	0
Matsqui	72	41	8.5
Mission	254	42	8
Mountain	183	53	9
Pacific	77	20	9 <sup>61</sup>
Regional Reception Centre - Pacific	39	3	–
Regional Treatment Centre - Pacific	82	40	–
William Head	18	9	1
<b>CCC-CRC<sup>62</sup> / PAROLEES IN THE COMMUNITY</b>	<b>265</b>	<b>0</b>	<b>0</b>
<b>GRAND TOTAL</b>	<b>5,553</b>	<b>1,132</b>	<b>354</b>

<sup>60</sup> Includes all of Ontario Regional Treatment Centre.

<sup>61</sup> Includes Regional Treatment Centre - Pacific.

<sup>62</sup> **CCC – CRC**: Community Correctional Centres and Community Residential Centres.

**Table C: Cases and Days in Federally Sentenced Women's Institutions**

REGION / INSTITUTION	CASES	INTERVIEWS	DAYS IN INSTITUTIONS
<b>ATLANTIC</b>	<b>68</b>	<b>23</b>	<b>12</b>
Nova Institution for Women	68	23	12
<b>QUEBEC</b>	<b>157</b>	<b>25</b>	<b>6</b>
Joliette	157	25	6
<b>ONTARIO</b>	<b>118</b>	<b>22</b>	<b>13</b>
Grand Valley Institution for Women	118	22	13
<b>PRAIRIES</b>	<b>93</b>	<b>12</b>	<b>10.5</b>
Buffalo Sage Wellness House	2	0	1
Edmonton Institution for Women	81	12	8.5
Okimaw Ohci Healing Lodge	10	0	1
<b>PACIFIC</b>	<b>126</b>	<b>27</b>	<b>12.5</b>
Fraser Valley Institution for Women	126	27	12.5
<b>GRAND TOTAL</b>	<b>562</b>	<b>109</b>	<b>54</b>

**Table D: Disposition of Cases**

ACTION	NUMBERS
Internal Resolution <sup>63</sup>	2,900
Inquiry <sup>64</sup>	1,996
Investigation <sup>65</sup>	669
Resolution Unspecified	37
<b>GRAND TOTAL</b>	<b>5,602<sup>66</sup></b>

<sup>63</sup> **Internal Resolution:** When the investigator only reviews simple file information/notes and/or speaks with the offender before closing the case.

<sup>64</sup> **Inquiry:** Same as Internal Resolution except that the investigator also completes one action in response to the complaint to acquire additional information before closing the case.

<sup>65</sup> **Investigation:** Same as Inquiry, but with two or more additional actions. Investigations differ from Inquiries in that they are more complex and require more significant analysis. Any case that results in a recommendation shall also be classified as an Investigation. An Investigation may also be a systemic case which requires that the situation be monitored.

<sup>66</sup> A case may be reopened and re-resolved more than once, each with its own reasons for why it is closed. This is the reason that the total number in this table is larger than the actual number of complaints reported in Table A.



**Table E: Cases, Individual Complainants, and Inmate Population by Region**

REGION	CASES	INDIVIDUALS <sup>67</sup>	INMATE POPULATION <sup>68</sup>
Atlantic	648	257	1,274
Quebec	1,150	503	2,684
Ontario	1,072	545	3,823
Prairies	1,393	634	3,945
Pacific	1,025	375	1,994
GRAND TOTAL <sup>69</sup>	4,939	2,460	13,720

<sup>67</sup> The number of individual offenders who contacted our office to make a complaint (i.e., complainants). Fourteen cases were removed because either no FPS number was assigned or the complainant wished to remain anonymous.

<sup>68</sup> Inmate Population broken down by Region as of April 12, 2020, according to the Correctional Service of Canada's Corporate Reporting System (CRS-M).

<sup>69</sup> Does not include CCC-CRCs or Parolees in the community. There were 146 unique contacts from the community.

**Table F: Top Ten Most Frequently Identified Complaint Categories by Population**

CATEGORY	NUMBER	PERCENTAGE
<b>TOTAL OFFENDER POPULATION</b>		
Health Care	638	11.49%
Staff	544	9.80%
Conditions of confinement	451	8.12%
Cell Effects	381	6.86%
Transfer	352	6.34%
File Information	234	4.21%
Safety/Security	228	4.11%
Visits	200	3.60%
Telephone	179	3.22%
Security Classification	128	2.31%
<b>INDIGENOUS OFFENDERS</b>		
Health Care	175	11.66%
Staff	161	10.73%
Conditions of confinement	125	8.33%
Transfer	92	6.13%
Cell Effects	82	5.46%
Safety/Security	72	4.80%
File Information	61	4.06%
Visits	46	3.06%
Parole Board of Canada Decisions	38	2.53%
Use of Force	36	2.40%
<b>FEDERALLY SENTENCED WOMEN</b>		
Health Care	103	17.46%
Conditions of confinement	66	11.19%
Staff	49	8.31%
Safety/Security	42	7.12%
Cell Effects	26	4.41%
Security Classification	24	4.07%
Programs	21	3.56%
Telephone	17	2.88%
Visits	17	2.88%
File Information	16	2.71%

## Annex C: Other Statistics

### A. Mandated Reviews Conducted in 2019-20

As per the *Corrections and Conditional Release Act* (CCRA), the Office of the Correctional Investigator reviews all CSC investigations involving incidents of inmate serious bodily injury or death.

#### Mandated Reviews by Type of Incident

INCIDENT TYPE	REVIEWS
Assault	46
Murder	3
Suicide	5
Attempted Suicide	11
Injuries (Accident)	18
Overdose Interrupted	9
Death (Natural Cause) <sup>70</sup>	8
Death (Unnatural Cause)	8
Escape	1
<b>TOTAL</b>	<b>109</b>

### B. Use of Force Reviews Conducted by the OCI in 2019-20

The Correctional Service is required to provide all pertinent and relevant use of force documentation to the Office. Use of force documentation typically includes:

- Use of Force Report
- Copy of incident-related video recording
- Checklist for Health Services Review of Use of Force
- Post-incident Checklist
- Officer's Statement/Observation Report
- Action plan to address deficiencies

**Note:** The data in the following tables represent only incidents reviewed by the OCI in 2019-20, which is a subset of all use of force cases received by the Office during the same period.

<sup>70</sup> Deaths due to 'natural causes' are investigated under a separate Mortality Review process involving a file review conducted at National Headquarters.

**Table 1: Frequency of Most Commonly Used Use of Force Measures**

	ATL	QUE	ONT	PRA	PAC	NATIONAL
REPORTED INCIDENTS REVIEWED BY THE OCI	118	271	238	336	146	1,109
<b>MOST COMMON MEASURES USED<sup>71</sup></b>						
Physical Handling	81	150	142	213	121	707
Verbal Intervention	71	57	40	305	140	613
Inflammatory/Chemical Agent <sup>72</sup>	67	166	90	219	71	613
MK-4	23	56	47	93	46	265
MK-9	27	46	17	61	25	176
T-21 Muzzle Blast	5	34	11	31	0	81
MK-46	3	21	12	24	0	60
ISPRA	6	1	2	6	0	15
T-16	3	1	0	3	0	7
Other	0	4	0	1	0	5
Grenades (chemical)	0	3	1	0	0	4
Restraint Equipment (handcuffs/leg irons)	41	80	151	172	79	523
Pointing Inflammatory Agent with Verbal Orders	2	23	27	45	16	113
Emergency Response Team (ERT)	11	11	20	25	4	71
Shield	1	8	5	26	3	43
Soft (Pinel) Restraints	3	10	1	17	3	34
Display and Charge of Firearm	3	2	2	8	1	16
C8 Carbine (firearm)	2	0	1	12	0	15
Distraction Device DT-25 ("flash grenade")	3	2	0	6	1	12
Baton	1	2	3	4	1	11
<b>GRAND TOTAL<sup>73</sup></b>	<b>286</b>	<b>511</b>	<b>482</b>	<b>1,052</b>	<b>440</b>	<b>2,771</b>

<sup>71</sup> A use of force incident can involve more than one measure.

<sup>72</sup> **Inflammatory agents**, commonly referred to as OC (oleoresin capsicum) or "pepper spray," contain a natural active ingredient capsaicin derived from pepper plants. **Chemical agents** contain an active chemical ingredient, and result in extreme irritation of the eye tissues, producing the involuntary closure of the eyes. The devices listed here are designed to deliver either inflammatory or chemical agents, or both.

<sup>73</sup> Totals are larger than the number of incidents reviewed by OCI because each incident can involve more than one measure.

**Table 2: Frequency of Most Commonly Used Use of Force Measures in Federally Sentenced Women’s Institutions**

REPORTED INCIDENTS REVIEWED BY THE OCI	72
MOST COMMON MEASURES USED	FREQUENCY
Verbal Intervention	62
Physical Handling	56
Restraint Equipment (handcuffs/leg irons)	28
Inflammatory/Chemical Agent	18
MK-4	15
MK-9	3
Pointing Inflammatory Agent with Verbal Orders	10
Soft (Pinel) Restraints	2
GRAND TOTAL	176

### C. Toll-Free Contacts in 2019-20

Offenders and members of the public can contact the OCI by calling our toll-free number (1-877-885-8848) anywhere in Canada. All communications between offenders and the OCI are confidential.

Number of toll-free contacts received in the reporting period: **27,582**

Number of minutes recorded on toll-free line: **78,869**

### D. National Level Investigations in 2019-20

1. *A Culture of Silence*: National Investigation into Sexual Coercion and Violence in Federal Corrections, (date of 2019-20 Annual Report tabling).
2. An Investigation of Therapeutic Ranges at Male Maximum Security Institutions, (date of 2019-20 Annual Report tabling).
3. *Learning behind Bars*: An Investigation of Educational Programming and Vocational Training in Federal Penitentiaries, (date of 2019-20 Annual Report tabling).

# Responses to the 47<sup>th</sup> Annual Report of the Correctional Investigator

## Minister of Public Safety

In this year's Office of the Correctional Investigator's (OCI) Annual Report, four recommendations were directed to the Minister of Public Safety (PS). The Correctional Investigator (CI) took a different approach to the Annual Report than previous years and conducted a systematic review of three key issues:

- i. education/vocational training for federal offenders,
- ii. therapeutic ranges, and
- iii. sexual coercion and violence in CSC institutions.

The Report directs four of thirteen recommendations to the Minister of Public Safety, related to education/vocational training, sexual coercion and violence and Medical Assistance in Dying (MAiD). These recommendations are outlined below, with proposed responses to each. Of note, recommendations #2 and #9 will be responded to jointly as they both relate to sexual coercion and violence.

**Recommendation #1: "I recommend that the Minister of Public Safety establish an expert working group to guide implementation of the Office's current and past recommendations on education and vocational training in federal corrections. This work should include timelines and clear deliverables."**

The Minister of Public Safety is committed to improving outcomes for federal offenders by enhancing opportunities that contribute to the rehabilitation of offenders and their successful reintegration into the community, while ensuring public safety. Increased education programming, enhanced employment skills training, and obtaining the skills to be gainfully employed are several key contributors to successful reintegration that help prepare people who have served a sentence in a federal correctional institution for the best possible transition to the community.

The Correctional Service of Canada (CSC) has, and continues to be, committed to carefully reviewing and considering all recommendations made by external and internal partners and stakeholders to improve vocational training and education for those in federal correctional facilities. There are currently a number of initiatives planned to be implemented, evaluated and reported on in progress, and therefore an expert working group, as recommended by the Correctional Investigator, will not be introduced at this time but could be considered at a later date once these current initiatives have been implemented and evaluated. The Commissioner, who receives regular updates to ensure that she is advised of all pertinent developments on timelines and deliverables related to CSC's educational and employment programs in federal facilities, will provide an update to the Minister of Public Safety on progress in June 2021.



CSC has committed to modernizing the education program to complement offenders' participation in correctional and employability programs by increasing their level of education, comprehension and critical thinking skills to optimize the impact of the interventions. A critical element of modern education is that of digital literacy, and the Minister is committed to overseeing that initiatives that develop this skill are being implemented by CSC. As an example, CSC will be implementing the Digital Education pilot project at Bath Institution by the end of this fiscal year. This digital Learning Management System will enable offenders to obtain specific high school credits through restricted internet connectivity to approved sites via a Virtual Private Network (VPN). Upon the review of this pilot project, CSC will explore opportunities to further expand this offering to include other online educational and training activities for offenders.

While work continues to explore opportunities to expand online learning and training opportunities, it should be noted that there have been ongoing challenges for CSC in implementing information management projects due to the significant age and condition of CSC's informatics infrastructure. There is a need to ensure that the necessary security measures are in place to enable technology to be made available in federal correctional facilities. Development and implementation of initiatives are also dependent on resource availability.

CSC has developed and implemented comprehensive programs, intervention, educational and employment strategies so that offenders can acquire the tools and skills they need to safely transition into the community as productive members. Some examples include the relaunch of CSC's farm employment programs at Collins Bay and Joyceville institutions. Across the country, both institutional and community employment initiatives have been enhanced for women offenders to meet their employment needs, such as opportunities to enroll in construction-related employment programs

at all six women offender sites. CSC has also provided vocational and on-the-job training through transitional employment to men, women, Indigenous offenders, and offenders with mental health needs who were not able to find regular community employment and required additional training and support to achieve that goal as soon as possible. Furthermore, CSC continues to work with Indigenous communities and partners at the national, regional and local levels to respond to the needs of Indigenous offenders. The Indigenous Offender Employment Initiative continues to be implemented in the Prairie, Ontario, and Pacific regions, building on successes since its implementation in 2017.

Implementing modern education and employment training opportunities at various institutions that support evolving employment trends are examples of the work that CSC undertakes as part of its mandate to prepare offenders for release. This work is a priority for the Minister and he is committed to overseeing that these successes are implemented at the national-level.

**Recommendation #2: “I recommend that the Minister of Public Safety introduce, in the next year, a legislative package that endorses a zero-tolerance approach to sexual violence in federal corrections and establishes a public reporting mechanism for preventing, tracking and responding to these incidents, similar to the Prison Rape Elimination Act in the United States.”**

**Recommendation #9: “I recommend the Minister of Public Safety directs that CSC designate funds for a national prevalence study of sexual coercion and violence involving inmates in federal corrections. The survey should be developed, conducted, and the results publicly reported on, by external, fully independent experts, with the experience and capacity to conduct research on this topic in a correctional setting.”**

The Minister of Public Safety would like to jointly respond to recommendations #2 and #9 from the Correctional Investigator’s Annual Report, as these two recommendations can assist in informing a strategy on tackling sexual coercion and violence (SCV) in federal corrections. A zero-tolerance approach to SCV is consistent with CSC’s policy and is fundamental to its operations to protect the physical and mental health and overall safety of those who live and work within federal correctional institutions.

Given the importance of gaining a better understanding of SCV in the Canadian context, Public Safety has developed a research plan, slated to begin in Fall 2020, to begin assessing SCV in federal corrections. In collaboration with CSC, Public Safety will collect information and data on the size, scope and impact of this issue, with consideration of vulnerable populations such as inmates with prior trauma, LGBTQ2+, women, and those with mental health issues in order to identify gaps in knowledge. An interim report on the work undertaken is set to be developed by Spring 2021 and will help inform future actions required to detect, prevent, and respond to sexual violence in correctional institutions. In leading this

research, Public Safety will collaborate with CSC, and others as needed, to ensure coordination with other actions being undertaken by CSC on the issue as outlined in responses to other recommendations in this report.

In addition, given the serious nature of the issue, the Minister has agreed to write to the Standing Committee on Public Safety and National Security requesting that consideration be given to undertaking an independent study, along with a report on their findings, on SCV in federal corrections.

Both internal and external research findings will assist Public Safety and CSC to determine the next steps in effectively and appropriately addressing SCV.

**Recommendation #3: “I recommend that the Minister of Public Safety jointly with the Minister of Justice and Attorney General of Canada strike an expert Committee to deliberate on the ethical and practical matters of providing MAiD in all places of detention, with the aim of proposing changes to existing policy and legislation. This deliberation should consider the issues brought to light by my Office, as well as the latest literature emerging from Canadian prison law and ethics. In the meantime, and until the Committee reports, I recommend an absolute moratorium on providing MAiD inside a federal penitentiary, regardless of circumstance.”**

Medical Assistance in Dying (MAiD) is a complex and deeply personal issue for all Canadians. The increased complexity of providing access to MAiD in a federal correctional setting underscores the need to ensure a robust and compassionate process is in place to support offenders with grievous and irremediable medical conditions who may wish to access MAiD services to end their lives in dignity. The Minister is mindful of the fact that the Department of Justice has recently reviewed the federal MAiD legislation, in consultation with Canadians, experts, practitioners, stakeholders, Indigenous groups, as well as provinces and territories. CSC is solely responsible for any matters related to the implementation of the MAiD legislation in federal penitentiaries, and CSC and the PBC share responsibility for various release options.

CSC’s MAiD guidelines require that an external Physician or Nurse Practitioner (external assessor) perform an eligibility assessment, and that the MAiD procedure be completed external to CSC, namely, in a community hospital or health care facility, other than in exceptional circumstances. These exceptional circumstances must be at the request of the inmate, and a Treatment Centre or a Regional Hospital may be used, provided approval has been received from the Assistant Commissioner, Health Services, and the procedure is conducted by a health professional

external to CSC. Of the MAiD procedures carried out since the implementation of the legislation, 3 out of 4 have taken place external to CSC facilities, by professionals outside of CSC.

The MAiD process as currently set out in CSC policy is comprehensive and contains numerous safeguards to ensure that inmates are provided full legal protection. However, the Minister agrees that further and ongoing analysis of the medical ethics of MAiD in correctional settings could be beneficial. The Minister has therefore requested that the Department, along with CSC and the PBC, in collaboration with the Department of Justice, engage with key stakeholders and experts with a view to making recommendations on any policy changes. Understanding that MAiD in Canada is continuing to evolve, the Minister commits to conducting this review by the end of 2021 to better understand and address any outstanding issues.

# Responses to the 47<sup>th</sup> Annual Report of the Correctional Investigator

## Correctional Service of Canada

### Introduction

Perhaps more so than at any time in Canadian history, the Correctional Service of Canada (CSC) has responded swiftly and deftly to rapid societal change. In June 2019, the culmination of court rulings on administrative segregation and the coming in to force of legislated amendments to the Corrections and Conditional Release Act prompted CSC to rise to the occasion and deliver transformative policy and practice without sacrificing service and program delivery.

CSC's ability to manage through these extraordinary challenges is due to the hard work and dedication of its staff, volunteers, advisory committees, and community stakeholders. The Service is developing the necessary agility and resiliency that is required to meet the demands of the twenty-first century. From senior administration to front-line workers, the organization is undergoing a significant cultural shift that strengthens our resolve to deliver on our Mission Statement while supporting our core values.

In 2019-20, CSC reached an unprecedented milestone in the field of corrections when the Service abolished the practice of administrative segregation and replaced it with a new Structured Intervention Unit model that provides tailored care to offenders with complex needs. CSC has also continued to address the needs of federal inmates with gender considerations and is currently undertaking research to transform the management of vulnerable groups – including women, Indigenous, Black and aging offenders.

CSC continues to provide inmates with safe and healthy living conditions. As we have come to expect, 100% of health inspections in our facilities yielded positive results, and every CSC menu is now compliant with Canada's food guide. Our Health Service professionals continue to deliver outstanding results. Of those with an identified mental health need at intake, 97% received a follow-up service; 88% of offenders with an HIV infection are now on treatment; and, 97% of those who completed HCV treatment achieved a sustained viral response.

CSC has also made significant progress towards our mission of actively contributing to rehabilitation and safe reintegration. In 2019, a comprehensive study of federal recidivism rates was published and reported an absolute reduction of 17.2% in reconvictions over time from 1996-97 to 2011-12. Also in 2019, CSC completed an evaluation of the Integrated Correctional Program Model (ICPM) in Canadian federal corrections. Analyses of ICPM effectiveness revealed that the men's risk and need profiles were being properly identified upon admission to federal custody; that these men were being assigned to the appropriate intensity and stream; and, that program completers were more likely to be granted an early release and more importantly, less likely to return to federal custody. These correctional results are reflective in the noteworthy decline (-992 or 6.7%) in the federal custody population from 14,712 at year-end 2015-16 to 13,720 in 2019-2020 and substantial rise (+1,037 or 12.4%) on community supervision from 8,345 at year-end in 2015-16 to 9,382 in 2019-20. Though these are impressive results, CSC is always seeking out opportunities to learn and excel. The relationship between CSC and the Office of the Correctional Investigator (OCI) is a central component of the Service's continuous self-reflection and improvement. Through collaborative exchanges with the OCI, we have been able to learn more about our business and develop improved means of delivering secure custody, rehabilitation, and safe reintegration of offenders back into the community.

## Responses to Recommendations

1. I recommend that the Minister of Public Safety establish an expert working group to guide implementation of the Office's current and past recommendations on education and vocational training in federal corrections. This work should include timelines and clear deliverables.

See response from the Minister of Public Safety.

2. I recommend that the Minister of Public Safety introduce, in the next year, a legislative package that endorses a zero-tolerance approach to sexual violence in federal corrections and establishes a public reporting mechanism for preventing, tracking and responding to these incidents, similar to the *Prison Rape Elimination Act* in the United States.

See response from the Minister of Public Safety.

3. I recommend that the Minister of Public Safety jointly with the Minister of Justice and Attorney General of Canada strike an expert Committee to deliberate on the ethical and practical matters of providing MAiD in all places of detention, with the aim of proposing changes to existing policy and legislation. This deliberation should consider the issues brought to light by my Office, as well as the latest literature emerging from Canadian prison law and ethics. In the meantime, and until the Committee reports, I recommend an absolute moratorium on providing MAiD *inside* a federal penitentiary, regardless of circumstance.

See response from the Minister of Public Safety.

4. I recommend that the replacement fleet of CSC escort vehicles be equipped with appropriate safety equipment for inmate passengers, including hand holds and seatbelts, and that any prototype vehicle be inspected by Transport Canada authorities before being put into production and service.

The Correctional Service of Canada (CSC) is committed to replacing its fleet of security escort vehicles to reflect recent industry advancements in their design and configuration, while ensuring the safety and security of the public, staff, and offenders.

A new Ford Transit T80R prototype, which includes an insert for up to four offenders and space for five Correctional Officers, has been developed and presented to CSC, UCCO-SACC-CSN, and the Office of the Correctional Investigator (OCI), in September 2019.

Following the prototype review, CSC is currently exploring with Ford and Farmbro further features, such as an L-shaped bench in both sides of the insert, allowing taller offenders to extend their legs along the length of the insert, and the extension of the length of the security insert.

The initial indications are that the insert could be modified to include these features. Options for seat belts and hand holds are also under review. Finally, it should be noted that our suppliers must ensure that the vehicles they provide meet the National Safety Standards established by Transport Canada.

**5. I recommend that CSC review independent Patient Advocate models in place in Canada and internationally, develop a framework for federal corrections and report publicly on its intentions in 2020-21 with full implementation of an external Patient Advocate system in 2021-22.**

CSC provides offenders with access to patient advocacy in accordance with the Corrections and Conditional Release Act (CCRA). CSC policy requires that, consistent with the requirements of their professional health regulatory colleges, healthcare professionals, including those providing services under contract, will use their expertise and influence to advocate on behalf of patients for provision of care that advances their health and well-being. CSC also facilitates access to provincially appointed patient advocates for offenders certified under provincial mental health legislation and actively encourages the engagement of these independent bodies. Furthermore, CSC remains committed to supporting the work of inmate advocates from non-governmental agencies, such as the John Howard Society, the Native Women's Association of Canada and Canadian Association of Elizabeth Fry Societies.

In line with the C-83 approved funding, CSC will establish an implementation plan by end of fiscal year 2022-23, with the goal of full implementation of the revised model by end of fiscal year 2023-24. Since the coming into force of C-83, CSC has provided educational sessions to Health Services management to support their roles in facilitating the provision of patient-centered care. This was further supported by a practice reminder for front-line health care staff on the provision of person-centered care. As well, ongoing discussions occur at all levels in the organization regarding the provision of quality care.

CSC recognizes the essential role of patient advocacy in the provision of health services, and intends to develop a patient advocacy framework for federal corrections. The first step

towards this initiative is to review independent Patient Advocate models in place in Canada and internationally.

**6. I recommend that CSC issue immediate instruction prohibiting the use of stun grenades in closed or confined spaces, including cells.**

The use of distraction devices (also known as stun grenades) is a common tool used within correctional and police communities in the management of incidents by creating a tactical advantage. Distraction devices are an approved tool within CSC for use by Emergency Response Teams. It is an effective tool, which allows for a swift intervention in high risk situations where the management strategies identifies the need to quickly gain control of the situation. Within a confined space, including cells, distraction devices serve to support offensive tactical maneuvers by facilitating a sense of distraction in the subject. Situational factors, such as an inmate armed with a weapon or a hostage situation, elevate the level of risk such that a distraction device is a reasonable tool as part of a room entry and intervention.

It is acknowledged that distraction devices have the potential to harm, and it is for this reason that their use is restricted to Emergency Response Teams who receive specialized training, include training in the use of distraction devices. This training addresses the precautions required related to hazards, such as flammability and noise.

In terms of the heat generated and the flammability of materials in the immediate area, CSC tested the OC spray product that was used in the incident referenced within this Annual Report, and the results indicated that this specific OC formulation type is indeed flammable. A Communiqué was sent immediately to advise sites of this hazard. Additionally, CSC is in the process of reviewing other OC product types for use when distraction devices are required. Procedures continue to prescribe that a fire extinguisher must be brought on scene for precautionary purposes.



That said, a review of CSC training on distraction devices identified areas that could be enhanced to better prepare staff in assessing the need for this equipment to further mitigate risk based on situational factors and areas related to strategic deployment. CSC will undertake these training revisions by the end of fiscal year 2020-21.

**7. I recommend that dry cell placements exceeding 72 hours be explicitly prohibited in federal corrections.**

It is expected that, at all times, institutions limit dry cell placements to what is reasonably required and for the shortest possible time. In understanding that conditions of confinement may be limited during the time of placement, there is continuous monitoring of the inmate by correctional staff, the Institutional Head and Health Care staff. The inmate is always to be provided with adequate bedding, food, clothing, and toiletry articles. CSC provides reasonable access to medical, spiritual, and psychological assistance, and a medical professional visits the inmate daily. Activities are permitted; however, not if they compromise contraband recovery. Institutional Standing Orders address requirements specific to activities and security related procedures. Dry cell placements exceeding 72 hours cannot be explicitly prohibited as it is more than feasible to delay bowel movement beyond 72 hours and, as documented in several medical literature, some individuals do not experience bowel movements more than once (168 hours) or twice (80-90 hours) a week. This is why the latest legislative changes do not impose a limit of time but rather imposes medical oversight.

Over the years, CSC has made a number of enhancements to dry cell requirements. The June 2012 update to the policy framework (Commissioner's Directive 566-7 - Searching of Inmates) introduced national requirements for dry cell placements, which included enhanced oversight and monitoring. Procedural safeguards outlined in policy require that the Institutional Head review the placement on a daily basis. To allow for oversight by someone other than

the Institutional Head, the Assistant Deputy Commissioner, Correctional Operations at Regional Headquarters is notified of any placement exceeding 72 hours. Moving forward, CSC will consider additional safeguards and oversight measures relevant to the use of dry cells.

**8. I recommend that the Service develop a separate and specific Commissioner's Directive for incidents of sexual coercion and violence involving federal inmates, that describes in detail how *all* staff should respond when allegations of a sexual assault are made, or an incident is suspected of having occurred. This policy suite should also detail mechanisms for detecting, tracking, reporting, investigating and preventing such incidents. CSC should look to other jurisdictions who have developed comprehensive approaches to policy and practice (e.g., *Prison Rape Elimination Act*) as it relates to sexual assaults involving incarcerated persons.**

CSC would like to respond to recommendations 8, 10, 11 and 12 jointly as they all relate to sexual coercion and violence involving federal offenders. The Service takes this issue very seriously. In order to ensure a safe and secure environment for all offenders in its care and custody, numerous measures have been put in place to ensure such acts are dealt with swiftly. To this end, CSC has mandated a Board of Inquiry (BOI) to investigate such incidents and is taking steps to ensure it better identifies, investigates and responds to these acts of violence. As such, out of 24 BOI reports related to such incidents, 19 recommendations were made, 14 were supported with actions taken and 2 are still in consultation.

In order to continue enhancing its approach, CSC will facilitate Public Safety's efforts to assess what is currently known about SCV in federal corrections and collect information and data on the size, scope and impact of this issue in order to identify gaps in data and knowledge. This knowledge will help forge CSC's approach.



Moving forward, CSC will engage other correctional organizations in a collaborative effort with the International Corrections and Prison Association (ICPA) – whose mission is to promote and share ethical and effective correctional practices to enhance public safety and healthier communities worldwide. This collaboration will identify best practices in effectively preventing and responding to sexual assaults involving incarcerated persons. This work will further inform CSC’s comprehensive approach in this area and strengthen its ability to mitigate risks and keep all offenders and staff safe.

Additionally, as part of the Correctional Training Program (CTP) delivered to recruits coming from all across the country, included in existing training on ‘Prison Sub-culture’ is the awareness brought with regards to the institutional economy, including an overview of how some offenders will sell sexual services to other offenders in return for protection, drugs, or acceptance.

Finally, it should be noted that CSC’s Offender Management System (OMS) already allows for the use of an alert to identify offenders that are vulnerable/other or are predatory (i.e. may exploit staff members or offenders). The Service closely monitors those individuals with an alert for vulnerable or predatory behaviour, which also inform its population management strategies.

- 9. I recommend the Minister of Public Safety directs that CSC designate funds for a national prevalence study of sexual coercion and violence involving inmates in federal corrections. The survey should be developed, conducted, and the results publicly reported on, by external, fully independent experts, with the experience and capacity to conduct research on this topic in a correctional setting.**

**See response from the Minister of Public Safety.**

- 10. I recommend that the Service develop an evidence-based strategy for the prevention of sexual coercion and violence involving individuals who are incarcerated, with specific attention to individuals or groups who are known to be at a heightened risk of victimization.**

See response to recommendation #8.

- 11. I recommend that, in the interest of staff and inmate safety, CSC develop a specific flag in OMS for perpetrators of institutional SCV and use this to inform population management strategies in order to mitigate potential risks and to keep vulnerable individuals (inmates and staff alike) safe.**

See response to recommendation #8.

- 12. I recommend that CSC develop and offer education, awareness, and training programs for *all* staff and inmates on sexual coercion and violence. Specific training on SCV should be provided to staff by certified experts in the field of prison sexual violence. Awareness programming on sexual violence should be provided to inmates upon admission to federal corrections.**

See response to recommendation #8.

**13. I recommend that CSC conduct an external review of its Therapeutic Range resourcing model, and to ensure that bed capacity and staffing reflects the actual needs of Mental Health Services. This review should also consider the following improvements:**

- a. **A therapeutic look and feel that incorporates more open spaces and yards with access to fresh air, shelter, and recreation; a dedicated programming space for both individual and group counselling; and easy and private access to health care facilities. Therapeutic Ranges should be placed away from the direct view of other inmates who are not residing on this range.**
- b. **Greater reliance on dynamic security practices. This can be in part accomplished by implementing the Therapeutic Unit Officer Pilot Program at all Therapeutic Range Sites.**
- c. **Dedicated complement of correctional and mental health staff, and access to Elders and Indigenous Services staff, commensurate with demand for these services on the Therapeutic Range.**
- d. **Elimination of beds that employ the Pinel restraint system, i.e., “Pinel beds” from Therapeutic Ranges.**
- e. **Allows for cascading to lower levels of security within the unit, minimizing transfers where possible and appropriate.**

CSC, in consultation with external experts and led by its National Senior Psychiatrist, will conduct a thorough review of Therapeutic Ranges by the end of 2022. The purpose of the review will be to ensure that a therapeutic environment has been implemented and that opportunities for treatment interventions and work with Elders and Indigenous services staff are maximized. This review will also consider recommendations put forward in an external review completed for CSC on the integration of traditional and Western healing and options for implementation on Therapeutic Ranges. Infrastructure and staffing requirements to support a therapeutic environment will also be examined to inform future planning, including optimal placement for observation cells and Pinel Restraint System beds.

