



# ANNUAL REPORT

of the Office of the  
Correctional Investigator

2015–2016



The Correctional Investigator  
Canada

L'Enquêteur correctionnel  
Canada

Canada 

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Cat. No.: PS100E-PDF

ISBN: 1493-5295



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June 30, 2016

The Honourable Ralph Goodale  
Minister of Public Safety  
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 43<sup>rd</sup> Annual Report of the Correctional Investigator.

Yours respectfully,

Howard Sapers  
Correctional Investigator

ACTIVATION QUET HOURS  
2300 - 0700 HOURS  
DAILY

HEURES DE SALENCE  
2300 - 0700 HEURES  
QUOTIDIENNEMENT

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# Correctional Investigator's Message



The *Corrections and Conditional Release Act (CCRA)*, enacted in 1992, enshrined the principles of the *Canadian Charter of Rights and Freedoms* in correctional law and entrenched the role of the Office of the Correctional Investigator in legislation. Part III of the *CCRA* gives the Office broad authority to serve as an ombudsman for federally sentenced offenders and investigate offender complaints related to “decisions, recommendations, acts or omissions” of Correctional Service of Canada (CSC). When reviewing complaints, the Office determines whether the CSC has acted fairly, reasonably and in compliance with law and policy. Impartiality and independence, principles that are protected in the enacting legislation, are

the source of the Office’s influence and credibility with the Correctional Service, Parliamentarians and the public.

The Office is an oversight, not an advocacy body; my staff do not take sides when investigating complaints against the Correctional Service. We conduct investigations and make recommendations to ensure safe, lawful and humane correctional practice. Ensuring accessibility is fundamental to the Office’s mandate. A regular presence in federal penitentiaries helps ensure follow-up and timely access to Ombudsman services. Some of the Office’s most important and impactful work occurs at the institutional level through the everyday resolution of issues, complaints and concerns.

Through the reporting period, the Office’s staff complement of 36 full-time equivalent employees handled more than 6,500 offender complaints. Investigators spent more than 370 cumulative days visiting institutions across the country, and conducted close to 2,200 interviews with offenders. The Office’s use of force team reviewed more than 1,800 incidents – its highest workload ever. Additionally, nearly 200 mandated reviews of serious bodily injuries and deaths in custody were completed. Intake staff handled 25,600 toll-free phone contacts logging close to 2,000 hours on the Office’s toll-free line. I am constantly impressed by the remarkable volume of work that comes to the Office and the quality with which it is completed. I am grateful for the degree of professionalism and excellence displayed by my small and dedicated team.

This report is intended to serve as a summary of that collective output, a reminder not only of what has been accomplished through an especially productive reporting year, but also a reflection on systemic areas of concern where further progress and reform are necessary. A number of issues and trends stand out in the consideration of this year's report, among them include:

1. An unabated increase in the number of Indigenous people behind bars, a rate now surpassing 25% of the total federal incarcerated population.
2. The reliance on and escalating number of use of force incidents involving inflammatory agents.
3. The demonstrated but unfulfilled need for more vocational and skills training programs in corrections.
4. Continuing decline in the quality and rigour of case management practices.
5. Inadequate progress in preventing deaths in custody.
6. Alternative service delivery arrangements for significantly mentally ill offenders.

Most of these concerns are not new. If anything, they suggest acceleration or deepening of trends that have been with us for some time. We know that the rate of mental illness is higher in the inmate population compared to general society and recent research confirms that federal offenders are prescribed psychotropic drugs at a rate that is almost four times higher than the general Canadian population. Almost two-thirds of male offenders report using drugs or alcohol on the day of their current federal offence. For the seriously mentally disordered and addicted, a sentence of imprisonment has become the contemporary equivalent of being sent to the asylum.

In January 2016, the Office reported that the number of Indigenous people in Canadian penitentiaries had just reached 25% of the total inmate population. For federally sentenced Indigenous women, their representation rate now exceeds 35% of the in-custody women population. Of course, disproportionate rates of contact and conflict with Canada's criminal justice system are nothing new for Indigenous Canadians. As the Truth and Reconciliation Commission (TRC) most recently reminds us, these issues manifest from the lingering effects of the residential schools, the legacy of Reserves, higher rates of substance abuse, poverty, sub-standard housing in Aboriginal communities and a continuing high rate of contact with child welfare and protection systems. Unfortunately, these are the roots and feeders of a federal correctional system which disproportionately holds Indigenous people longer and at higher security levels than their non-Aboriginal counterparts.

I am encouraged by the present Government's stated commitment to implement the TRC's "*Calls to Action*," several of which, including eliminating the overrepresentation of Aboriginal people and youth in custody over the next decade, link directly to corrections. Ending the cycles of intergenerational violence, abuse and discrimination that bleed into our jails and prisons will require vision, leadership and sustained focus and action. It is yet another reason why I again call on the Correctional Service to do the right thing and appoint a Deputy Commissioner for Indigenous Corrections, a position and person who can provide the kind of focused direction and accountability required to realize TRC commitments.

In looking back over the past decade, I am particularly concerned by how changes to the *Corrections and Conditional Release Act* have been incorporated into policy and translated

into practice. Introduced in March 2012, the *Safe Streets and Communities Act* made several significant changes to the purpose and principles of federal corrections. For example, principles typically reserved for sentencing – such as the “nature and gravity of the offence” and the “degree of responsibility of the offender” – were parachuted into correctional law suggesting that it is somehow appropriate to manage offenders based not on their level of risk or need, but on the severity of their crime. Corrections is supposed to administer the sentence – challenge and change attitudes and behaviour that lead to criminal conduct – not add to it.

Several other principles were muted or abandoned such as proportionality and restraint in the use of imprisonment gave way to other objectives, usually framed in terms of the “pre-eminence” of public safety. The reference to inmate “privileges” was removed from correctional law. Other long-standing principles, such as the least restrictive measure, were replaced with more ambiguous and elastic language that included “proportionate and necessary measures.” The notion of “offender accountability” became political shorthand for a series of legislative initiatives that effectively increased the severity of the sentence or the length of time spent in custody.

Perhaps the most significant change to the *CCRA* has been the incorporation of the “paramount consideration” principle, a new section which immediately follows the purpose statement of the federal correction system. This section provides that “the protection of society is the paramount consideration for the Service in the corrections process.” This change suggests that other equally valid correctional objectives, such as reintegration and rehabilitation, are at odds with the protection of the public.

Considered together, these changes to the principles of federal corrections reflect little tolerance for even well-managed risk. The odds are now firmly stacked against early discretionary release (day and full parole) and in favour of presumptive or statutory release (two-thirds point of the sentence). CSC is making fewer recommendations for release to the Parole Board of Canada. The number of offenders accessing the community through temporary absences and work releases fell to new lows again last year.

To be clear, the protection of society is a legitimate public policy objective for our correctional system, but it does not serve us well to have it stand as an over-riding principle. Canada’s federal correctional system is founded upon a dual purpose mandate: to exercise safe and humane custody and supervision of offenders and to assist their timely return to the community as law-abiding citizens. Experience and evidence tell us that the protection of society is the outcome of safe and effective correctional practice. We should not confuse or replace correctional purpose with principles.

The recent past teaches us that Canada’s custody and release machinery does not optimally function in an administrative, legal or policy environment where there is little tolerance for error or risk. Deciding to release an offender to the community continues to require sound judgment and the active involvement of the case management team. When done properly, corrections contributes to prosperous and safe communities. Delaying or denying release to statutory or warrant expiry does not in and of itself lead to gains in public safety. Although correctional principles have been changed, the goal of preparing and assisting offenders for safe and timely reintegration remains.

Our correctional system is premised on the idea that the rule of law follows offenders into prison. It is guided, shaped and underwritten by constitutional rights and freedoms. It is my hope that this fundamental truth is at the forefront of the promised Criminal Justice review.

In closing, I welcome the government's commitment to openness and transparency. However, corrections is one area of public administration that is far from "open by default." Prisons and those who administer them tend to operate largely closed to public view or scrutiny. In a robust and vibrant democracy, independent oversight, external review and outside intervention by assurance providers, the courts and Parliament continues to be necessary in ensuring Canada's prison system is safe, lawful and accountable.

A handwritten signature in black ink, appearing to read 'Howard Sapers', written in a cursive style.

Howard Sapers

Correctional Investigator

# EXECUTIVE DIRECTOR'S MESSAGE

It has been another productive and busy year for the Office. Through the reporting period, the Office embarked on a comprehensive strategic planning exercise to review and renew the Office's priorities and work processes to ensure they remain relevant and responsive to the organization's mission and mandate. The resulting Strategic Plan 2015-2020 provides corporate direction and focus, integrating and aligning the Office's work within Blueprint 2020 and Destination 2020 activities, as well as the results of 2014 Public Service Employee Survey (PSES). This plan provides an opportunity for enhanced and effective delivery of the Office's important mandate.

Highlights and accomplishments which contributed to the strategic planning exercise included:

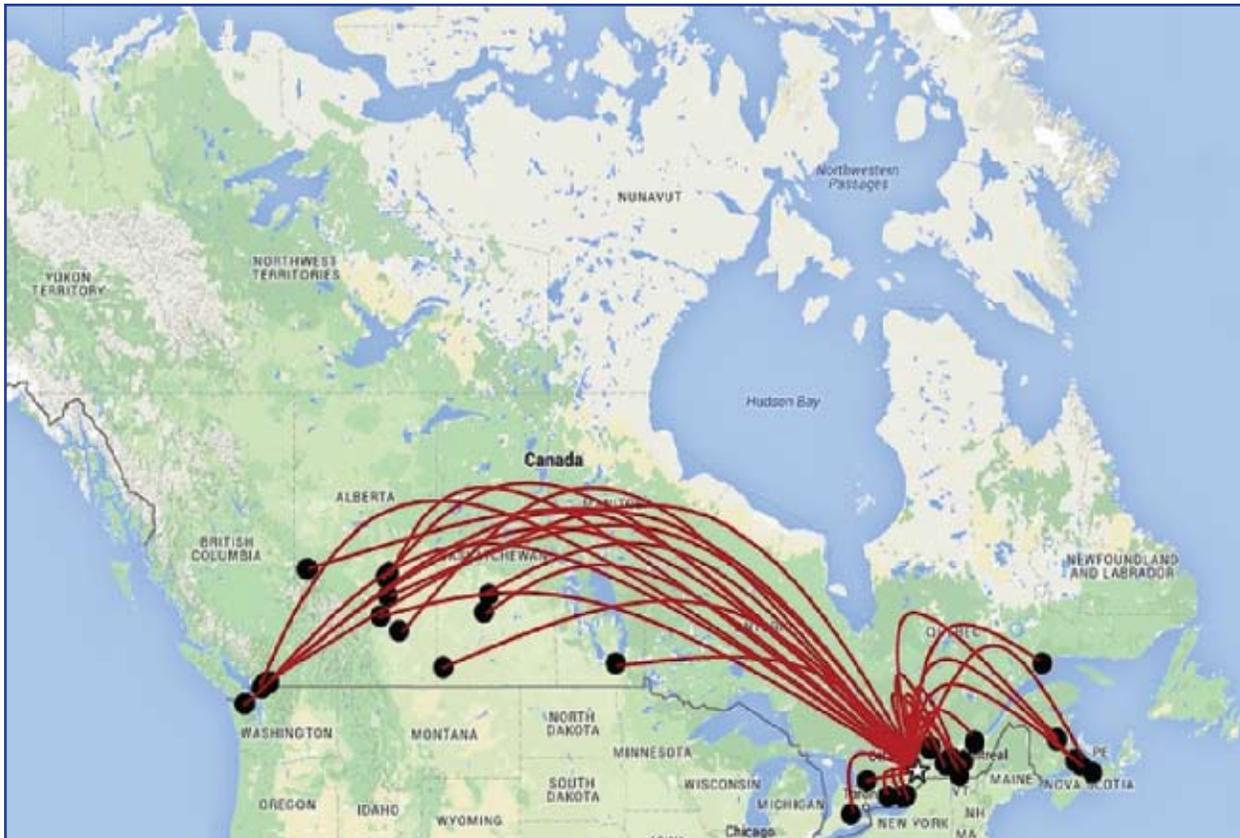
- The working group on Technology and Innovation submitted its final report with recommendations on technologies to assist and improve the delivery of the Office's mandate.
- An action plan was developed by an external consultant to deal with issues raised by staff response to the PSES. All items on the action plan were fulfilled over the year and will continue to guide the work of the organization over the long-term.

- A mid-year two-day strategic planning retreat was held where staffing streams (Intake, Investigators, Policy and Corporate) presented their role, function and suggestions for improving workload and processes.
- The Office's new shared case management tool is on track with roll-out planned for April 2017.

The Office also offered continuous learning sessions on Inuit Cultural Awareness, Aboriginal colonization, privacy, informal conflict management and mental health awareness. The coming year will be defined by an ambitious agenda as the Office moves forward with implementing key activities identified in the Strategic Plan.

Ivan Zinger, J.D., Ph.D.

Executive Director and General Counsel



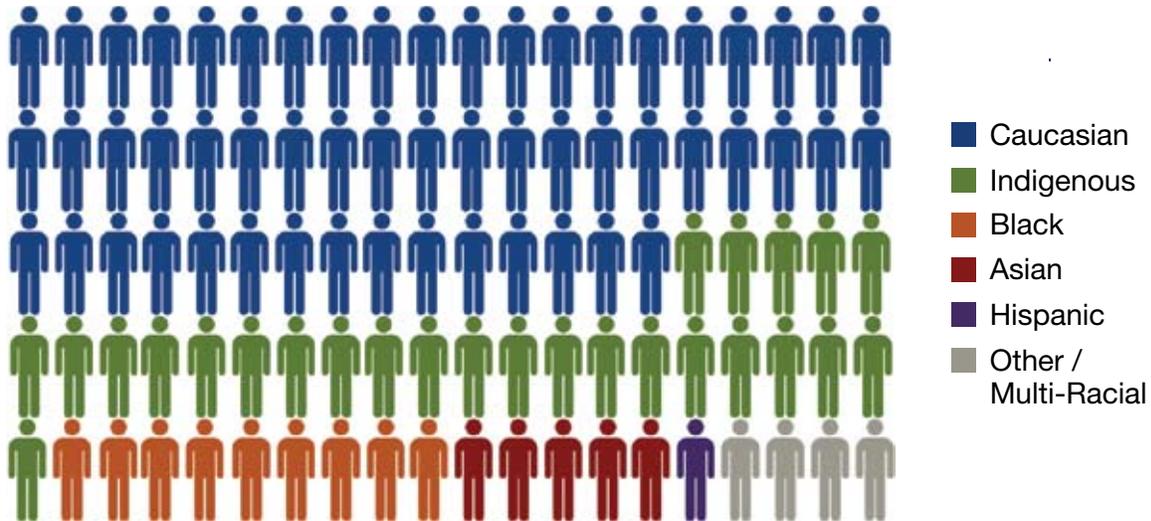
## OCI by the Numbers 2015-2016

- \$4.3 M budget
- 358.5 days spent in penitentiaries
- 6,500 offender complaints
- 2,196 interviews with offenders and staff
- 1,833 use of force reviews
- 196 deaths in custody and serious bodily injury reviews
- 25,600 toll-free phone contacts
- 1,918 hours on toll-free line

# FEDERAL CORRECTIONS IN CONTEXT 2015-16

**Total inmate population: 14,615 (Average Daily Count)**

## Inmate Population Diversity



**\$111,202**



**Average Annual Cost (2013-14) of Incarcerating a Male Inmate**

(Women Inmates cost twice as much)

**1 in 4**

**inmates are Indigenous**  
(36% of women inmates are Indigenous)

**1 in 4**

**inmates are over the age of 50**

**Almost 60%**

**of inmates are classified as medium security**

**1 in 5**

**inmates are serving a life sentence**

**More than Half**

**of all women inmates have an identified mental health need**  
(compared to 26% of male inmates)

**4 in 10**

**inmates are serving a sentence of 2 to 4 years**

# 1

## HEALTH CARE IN FEDERAL CORRECTIONS



## Context: Health Status of Offenders

### Physical Health

A recent review of the social determinants of health among all Canadian prisoners (federal/provincial/territorial) concluded that the health status of this population is poor compared with the general population across a range of indicators including mortality, mental health, substance use, communicable diseases, and sexual and reproductive health<sup>1</sup>. Key findings of this clinical review include:

- Most persons in custody have experienced substantial adverse events in childhood (e.g. witnessing family violence or being involved with the child welfare system); at least half report a history of childhood physical, sexual or emotional abuse.
- The socio-economic status of this population is low, as indicated by substandard housing, low employment rates, low educational achievement and low income status.
- A disproportionate number of persons die in custody; rates of suicide and homicide are particularly high compared to the general population.
- Most persons in correctional facilities have mental health and/or substance abuse disorders.
- More than two-thirds of adults in Canadian custody are current smokers.

Recent CSC research confirms a number of the key findings of the independent clinical review – that federal offenders experienced social determinants associated with poorer health outcomes over the course of their life

such as poverty, low educational attainment, substandard housing and underemployment. Two social determinants in particular were consistently related to poorer health among federally sentenced men: history of childhood abuse and the use of social assistance.<sup>2</sup> Other studies point to higher incidence of chronic illness, infectious disease, premature mortality and health risk among offender populations, including high prevalence of concurrent addiction and mental health disorders.

### Mental Health

A recent study of the prevalence of psychotropic medications behind bars found that these drugs were more commonly prescribed to federal offenders than in the general Canadian population (30.4% vs. about 8.0%).<sup>3</sup> Considerably more federally sentenced women than men had an active psychotropic medication prescription (45.7% for women and 29.6% for men). The study found that it was also relatively common for offenders to have more than one active psychotropic medication prescription. Overall, 17.3% of offenders had an active prescription for one psychotropic medication, 8.2% had two, and 4.9% had three or more. The most common psychotropic medication prescription category was antidepressant agents. Though psychotropic drugs are prescribed to federal inmates at a rate that is close to four times more than the Canadian average, the study contends that it is commensurate with similar correctional jurisdictions. Consistent with higher prevalence rates, women offenders were more frequently prescribed psychotropic medication than male offenders.

This study, which responds to some earlier concerns raised by the Office with respect to high percentage of women offenders prescribed psychotropics, is important as it

<sup>1</sup> Fiona Kouyoumdjian, Andrée Schuler, Flora Matheson, Stephen Hwang, *Health Status of Prisoners in Canada, Canadian Family Physician* (March 2016).

<sup>2</sup> CSC, *Social Determinants of Physical Health Conditions among Incoming Canadian Federal Inmates* (June 2015).

<sup>3</sup> CSC, *Prevalence of Psychotropic Medication Prescription among Federal Offenders*, Research Report R-373 (July 2015).

provides further evidence toward establishing baseline prevalence rates for major mental health illnesses among federal offenders. For example, in 2014-15, CSC reported that 27.6% of the incarcerated population had mental health needs (defined as having had at least one mental health treatment-oriented service or stay in a treatment centre during the previous six months).<sup>4</sup> This percentage accords with the rate of offenders flagged by the Service at intake as requiring further mental health assessment. Previous sampling of incoming male offenders indicate the following prevalence rates: mood disorders 16.9%, alcohol or substance use disorders 49.6%, and anxiety disorders 29.5%. Lifetime disorder rates for borderline personality disorder were 15.9% and for antisocial personality disorder 44.1%.<sup>5</sup> By any measure, these rates far exceed those found in the general population.

The findings of these different studies and reviews converge on two important and related points: i. health status information is critical for defining areas of focus for improving correctional-based health care and; ii. time in custody offers a unique opportunity to intervene to improve offender health, with potential benefits for all Canadians such as decreasing health care costs, improving public safety and decreasing re-incarceration. Treating communicable diseases like Hepatitis C and offering a full range of harm reduction measures in prison helps reduce overall incidence and burden of disease and lessen public health risk. Full implementation of an electronic medical records system in federal corrections, which includes an ePharmacy solution to address drug inventory, control and distribution within CSC's regional pharmacies, should represent a major leap forward in strengthening correctional health care planning, evaluation and overall service delivery linked to offender health status and need.

## Role of Health Care Providers in Corrections

The expanding involvement of health care professionals in matters that are outside their immediate and respective medical authority is troubling. The Office takes particular exception to the expanded 'advisory' role that health care professionals are now expected to play in segregation review boards. It seems improper for health care workers to be involved in the decision to maintain an offender in administrative segregation while maintaining a therapeutic relationship with that inmate

In the Office's review of use of force incidents, we question the nature and quality of post use of force psychological and health care assessments that are limited to visual inspection versus physical examination. These assessments are very often cursory in nature, limited to a few simple questions, conducted outside cell doors or through physical barriers, including food slots in isolation, segregation and observation cells. It is particularly instructive that more than half of the 1,800 plus use of force reviews conducted by the Office in 2015-16 indicated deficiencies with the post-use of force health care assessment.

At issue is the changing policy, administrative and operational context in which health care services are being provided. There is a pervading feeling of 'mission creep,' co-optation of health care workers in service of operational interests at the potential expense of patient needs. Paradoxically, the situation appears to have deteriorated even as the reporting relationships and accountability structures for health care workers were brought under the fold of the Health Services sector rather than operations. In recent years, CSC health services have undergone considerable and consequential changes. Many of these

<sup>4</sup> CSC, Mental Health Branch Performance Measurement Report Year End Results 2014-15 (April 1, 2014 – March 31, 2015).

<sup>5</sup> CSC, *National Prevalence of Mental Disorders among Incoming Federally-Sentenced Men*, Research Report, R-357, (February 2015).

changes, including the implementation of the Refined Model of Mental Health Care for mental health service delivery, are still being rolled out. Health care policies across the board have been re-written, condensed, re-promulgated and implemented, but there has perhaps not been enough attention paid to how this constant state of flux and change has impacted scopes of practice, professional autonomy and patient advocacy on front-line service delivery. Whatever the source of these role conflicts and ethical dilemmas, it appears timely for these matters to be frankly discussed and debated among correctional health care professionals and their regulatory and licensing authorities.

- 1. I recommend that CSC consult with professional colleges, licensing bodies and accreditation agencies to ensure operational policies do not conflict with or undermine the standards, autonomy and ethics of professional health care workers in corrections.**

## **Aging and Dying Behind Bars**

As the offender population ages behind bars, the frequency of chronic diseases and conditions requiring specialized and expensive treatment, up to and including palliation, is growing. In 2015-16, there were 38 deaths recorded in CSC facilities attributed to natural causes. The average age of natural death was 62. The Parole Board of Canada received 28 Requests for Royal Prerogative of Mercy in 2014-15 – none were granted. As I have previously reported, the rising number of natural cause and/or premature death behind bars requires answers and some clear public policy direction. Federal penitentiaries were never intended to serve as hospitals or hospices. The Office continues to believe that there are better, safer and less costly options in managing an age cohort that poses the least risk to public safety yet is the among the most expensive to incarcerate. At one

Ontario institution, more than half of the inmate population is age 50 or older. There are four dialysis machines running at this facility. Despite the growing need, there is still no national strategy to address the health care concerns of the ¼ of the inmate population that is now aged 50 or older.

- 2. I recommend that CSC develop, publicly release and implement an older offender strategy for federal corrections in 2016-17 that addresses the care and custody needs of offenders aged 50 or older. This strategy should include programming, reintegration, public safety and health care cost considerations.**

## **Access to Dental Care**

Through the reporting period, the Office received increasing numbers of inmate complaints relating to access to dental care in CSC facilities. The source of these complaints stems from a decision to stop providing what the Service calls “non-essential” dental services. As of April 2014 the annual expenditure on dental services was reduced by just over \$2M, which represents a reduction of more than 30% in spending on dental health care in the two year period between 2012-13 and 2014-2015. The predictable impacts of this short-sighted decision are beginning to be felt across the country.

Driven by short-term cost reduction goals, dental services are now prioritized according to the perceived level of need and severity – emergency, urgent or routine. According to CSC, “giving priority to inmates with the highest level of need will allow CSC to more carefully manage its resources.” In many institutions, only the most severe or urgent cases are being treated. For example, inmates were previously provided complete oral examination and treatment planning once per year. This timeframe has now been extended



to once every five years. “Routine” (or non-essential) cases are added to already long waitlists that can take several months before care is provided. Inmates in more remote institutions have reported to the Office that they have little or no access at all to dental services as there is no provider currently on contract. These complaints raise legitimate concerns that CSC is failing to meet its obligation to provide adequate access to essential dental health care.

Across the country, institutions are able to offer only a limited number of dental clinics in a given year, and contract dental professionals are increasingly required to prioritize inmates with more pressing dental needs over those with more routine or preventative care requirements. In institutions where dental care is extremely limited, due to a lack of dental professional contract or demand for services

that far exceeds capacity, several Chiefs of Health Care are reporting that service provision standards are routinely not met. In some institutions, Escorted Temporary Absences (ETAs) are becoming the only care option for inmates whose dental needs are less pressing or include “non-essential services.” Reliance on ETAs for dental care provision is particularly concerning given the current set of challenges of providing community escorts in a timely manner due to conflicts with other operational priorities, cost constraints and staffing realities.

It can be expected that this short-sighted approach to generating modest savings will eventually lead to higher avoidable costs over the longer term as “non-priority” or “routine” issues develop into progressively more serious or emergency cases. In some sites, there has been a higher acuity in the list of inmates waiting to see the dentist as conditions such as

abscesses develop. This causes a long delay for those who are not necessarily highly acute. Extraction may become the “routine” course (and cost) of dental treatment in CSC facilities, which clearly does not meet the Service’s duty of care.

**3. I recommend that CSC create a national action plan to address dental waitlist concerns, restore funding for preventative dental health care and improve access to dentistry services in federal penitentiaries.**

## A Comprehensive Harm Reduction Strategy

Blood-borne infections are much more prevalent among offender populations. Over the past number of years, the Office has repeated calls for the CSC to explore a more comprehensive set of harm reduction measures that would more broadly mirror what is available and practiced in the community. Among others, such a strategy behind bars would include re-introducing safe tattooing sites and implementing a prison-based needle exchange program. Access to these measures in prison is both a public health and human rights issue. For example, the United Nations *Basic Principles for the Treatment of Prisoners* (1990) states that “Prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal status.”

Since first established in Switzerland more than 20 years ago, prison needle exchange programs have been implemented in a number of prisons and correctional jurisdictions throughout the world. Evidence has shown that, similar to those in community-based settings, prison-based needle exchange programs have proven effective in reducing the spread of infectious blood-borne diseases that

arise through needle-sharing, increasing the number of offender referrals to drug treatment programs and reducing the need for health interventions related to over-dose incidents.<sup>6</sup> With proper controls in place, needle exchange and safe tattooing programs in prison do not jeopardize the safety and security of staff, inmates or the institution. CSC has already demonstrated that safe tattooing sites can be effectively implemented in federal corrections to the benefit and interests of the health and safety of staff, inmates and the general public alike.

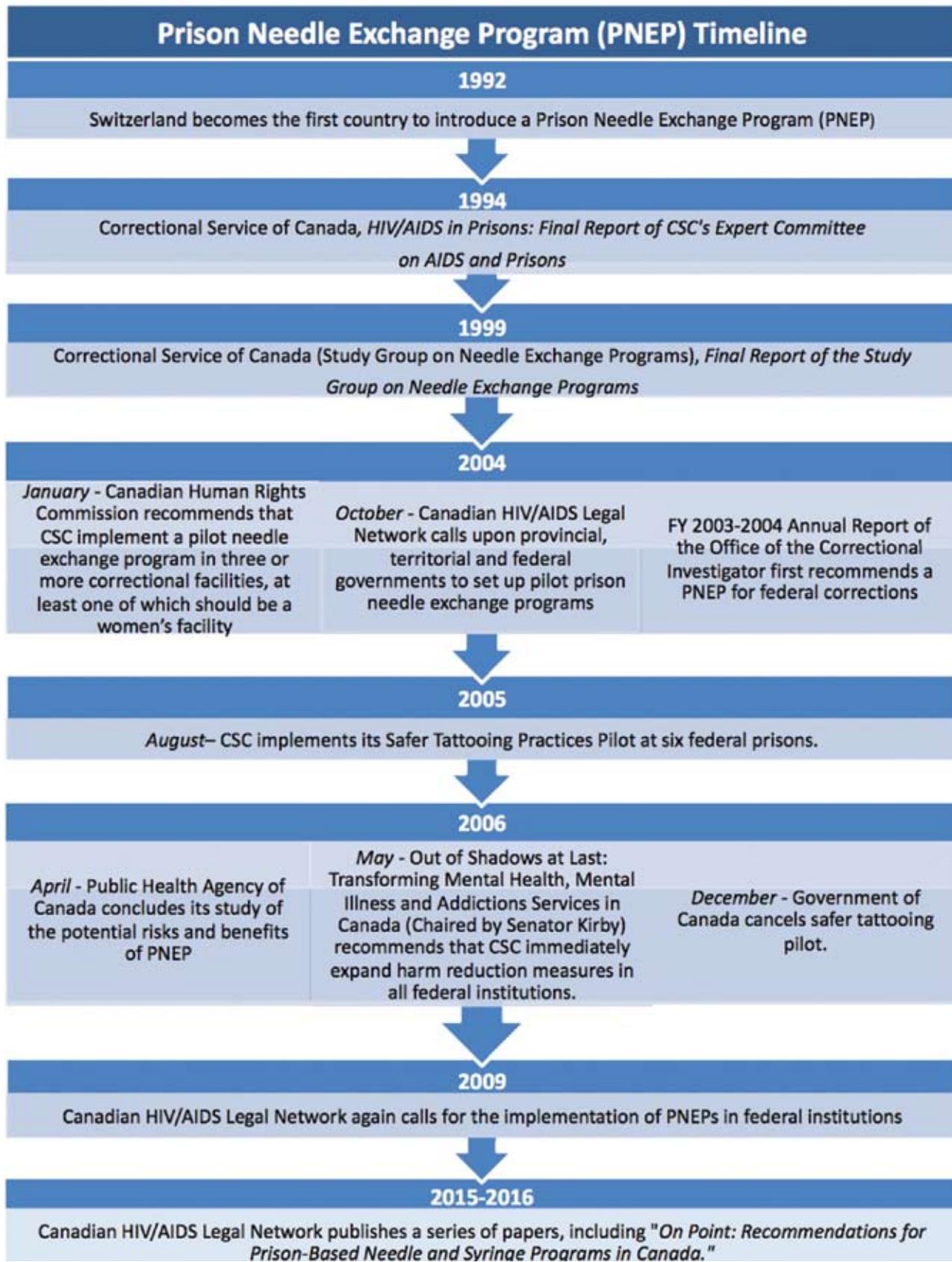
**4. I recommend that CSC enhance harm reduction initiatives including the re-introduction of safe tattooing sites and the implementation of a needle exchange pilot and assess the impacts of these measures on inmate health, institutional substance miss-use and security operations.**

## Fetal Alcohol Spectrum Disorder

In my 2014-15 Annual Report, I reported on the estimated prevalence of FASD in federal corrections as anywhere between 10% and 23%, and the fact that the CSC does not have a reliable or validated system to screen, assess or diagnose this spectrum disorder at intake.<sup>7</sup> The lack of reliable prevalence data means offenders with undiagnosed FASD may not be benefitting from specialized interventions that take into account an offender’s mental health needs, as per legal requirements. As the emerging research on this segment of the offender population makes clear, the correctional environment presents unique and significant challenges for FASD-affected individuals, many of whom may find it difficult to self-regulate, adhere to penitentiary rules, demonstrate respect for authority or learn from past mistakes.

<sup>6</sup> Emily van der Meulen, Stéphanie Claivaz-Loranger, Seth Clarke, Annika Ollner, and Tara Marie Watson. *On Point: Recommendations for Prison-Based Needle and Syringe Programs in Canada*. Toronto, ON (January 2016).

<sup>7</sup> CSC uses the *General Ability Measure for Adults* (GAMA) tool to detect low cognition, which may result in a referral for further assessment of an array of conditions, including FASD.



## Case Study

### Fetal Alcohol Spectrum Disorder Best Practice Guidelines for Corrections

#### Institutional Corrections

- Increase staff training, strategies, and awareness of working with FASD-affected individuals.
- Enhance admission screening and assessment criteria for cognitive deficits / disorders
- Expand FASD-adapted program delivery models and capacity

#### Community Corrections

- Provision of supportive and safe housing.
- Access to meaningful employment.
- Consolidation of family and / or community supports and services.

Last year, I recommended that CSC establish an expert advisory committee to provide advice on screening, assessment, treatment and program models for FASD-affected offenders. The Service responded that all offenders are eligible for specialized treatment and supports regardless of whether they have a confirmed diagnosis of FASD or not. Notwithstanding, CSC agreed to undertake an assessment of the need for such a committee. Though I have yet to hear back from the Service on its intentions to form an advisory group, I was happy to make contact with a community-based group – Central Alberta FASD Network – that has partnered with Bowden Institution to create a collaborative, integrated and multidisciplinary approach to assessing suspected FASD-affected offenders and supporting them on their release. The program already captures best practice guidelines and should be replicated across the country.

**5. I recommend that CSC work collaboratively with community groups that have proven expertise in providing treatment services and supports for FASD-affected individuals to address significant gaps in assessment, programming, treatment and services to these offenders in federal corrections.**

### Transgender Inmates

The Office remains concerned that CSC's policy framework for transgender inmates (Guidelines 800-5 *Gender Dysphoria*) is outdated and puts this group at elevated and unnecessary risk. Currently, transgender inmates who have not had sex reassignment surgery are held in institutions that correspond to their biological sex. This practice means that pre-operative transgender women prisoners in federal custody are forced to live in men's institutions. They may be placed in institutions or situations where they are vulnerable to sexual harassment or assault.

Moreover, under current policy, pre-operative transgender inmates are only eligible for surgery after spending one year living as a transgender person in the community – not in prison. CSC policy further requires that it proceed without delay to determine the timing of the approved surgery (which is an essential medical service) taking into account “operational considerations and the offender’s release date.” The effect of this policy is discriminatory and inconsistent with community health care standards as most pre-operative transgender inmates will never practically satisfy the “one-year ‘real-life’ experience” test required by CSC.

Federal correctional policy does not adequately reflect the current and evolving state of domestic and international law protecting the rights of transgender people who are imprisoned. The most recent *Standards of Care for Transgender People* (2011) indicate that transgender “people should not be discriminated against in their access to appropriate health care based on where they live, including institutional environments such as prison.”

**6. I recommend that CSC’s gender dysphoria policy be updated to reflect evolving legal and standards of care protecting the rights of transgender people in Canada. Specifically:**

- upon request and subject to case-by-case consideration of treatment needs, safety and privacy, transgender or intersex inmates should not be presumptively refused placement in an institution of the gender they identify with.
- the ‘real life’ experience test should include consideration of time spent living as a transgender person during incarceration.

## Update on CSC’s Response to the Ashley Smith Inquest

CSC responded to the Coroner’s recommendations into the death of Ashley Smith on December 11, 2014, one year after the inquest reported and seven years after Ashley died in a segregation cell at Grand Valley Institution for Women in October 2007. At that time, I observed that CSC’s response was frustrating and disappointing. That assessment stands.

The jury’s final recommendation stated: “That the Office of the Correctional Investigator monitor and report publicly, and in writing, on the implementation of the recommendations made by this jury annually for the next 10 years.” Since most of the recommendations were not answered individually, much less substantively, there seems little practical value in my Office issuing an annual public progress report. I would simply note as an update that the Government has committed itself to implementing outstanding recommendations from the inquest, including those regarding the restriction of the use of solitary confinement and the treatment of those with mental illness.

I specifically look for movement on key health care measures identified by my Office and at the inquest. Among these I would include:

1. Prohibit long-term segregation of mentally dis-ordered offenders.
2. Commit to move toward a restraint-free environment in federal corrections.
3. Appoint independent patient advocates at each of the Regional Treatment Centres.
4. Provide for 24/7 on-site nursing services at all maximum, medium and multi-level penitentiaries.
5. Develop policies and practices to address the unique needs of younger offenders.

Progress on these important issues would demonstrate that the lessons from Ashley Smith's tragic and preventable death have indeed been learned and, more importantly, acted upon.

## CSC's Response to Self-Injurious Behaviour

In February 2016, the Office received a consultation request informing of CSC's intent to revise Commissioner's Directive 567 – Management of Security Incidents and the Situation Management Model (SMM). The Policy Bulletin accompanying the consultation request noted that “the policy has been modified in relation to the Response to the Coroner's Inquest Touching the Death of Ashley Smith (December 2014).”

At the Ashley Smith inquest, CSC was urged to explore alternative front-line response models for managing difficult, complex and challenging self-injurious behaviours. Specifically, the jury made two recommendations relevant to the Commissioner's Directive in question:

50. That CSC develops a new, separate and distinct model, from the existing Situation Management Model, to address medical emergencies and incidents of self-injurious behaviour.
51. That the Situation Management Model not be resorted to in any perceived medical emergency.

In making these recommendations, the jury recognized that first response correctional officers are not mental health professionals, nor do they necessarily have the tools, training or resources to safely defuse situations where an inmate is in acute psychological or medical distress.

In an exchange of correspondence with the Office, CSC stated that, based on its analysis, the SMM remains “fundamentally sound” and that “medical emergencies, incidents of self-injurious behaviours and offenders with

mental health disorders are situations that are appropriately covered in the SMM.” In other words, the CSC was rejecting the specific recommendations from the Ashley Smith inquest.

In reaching this conclusion CSC relied on consultations undertaken with the Canadian Association of Chiefs of Police, the RCMP and other “stakeholders,” mostly or entirely drawn from the law enforcement community. My Office was not included in this consultation nor, evidentially, were any mental health professionals or experts working in the forensic or psychiatric fields. The result of the consultation was predictable. Instead of developing a new, separate and distinct model for addressing mental health and self-injurious behaviour in CSC facilities, the revised policy simply opts to add these components to the list of “situational factors” to be considered when staff are formulating a response to a self-injurious incident. Beyond requiring non-clinical staff to take into account an “inmate's mental state and ability to comprehend direction,” the review of the SMM seems to have yielded little in the way of new policy direction or alternative approaches to managing self-injurious incidents in CSC facilities.

For a number of years, the Office has encouraged CSC to treat and respond to self-injurious behaviour as a mental health not security issue. Absent further policy direction or alternative response protocols (such as requiring a mental health professional to provide a therapeutic response while security staff remains in the background ready to intervene if required), the proposed revisions are unlikely to change what has become, since Ashley Smith's death, a predominantly security driven response to self-injurious behaviour, especially in higher security correctional environments.

When confronted with a self-injurious offender, the SMM requires staff to isolate and contain the threatening behaviour or situation as quickly and safely as possible. Non-clinical staff are

trained and directed to respond as if all self-injurious incidents might result in accidental or intentional death. After verbal interventions fail, these situations can quickly escalate leading, in some cases, to some unhelpful or even punitive response options, up to and including the use of inflammatory agents, physical handling or restraints, disciplinary charges or placement in a segregation or observation cell. In some cases of serial self-injury, even the compliant application of the SMM can end up reinforcing or escalating the severity or lethality of the behaviour it seeks to contain or neutralize. Few of these outcomes can be considered desirable or appropriate from a clinical, human rights or even correctional perspective, which is precisely why a different, non-SMM, non-security focused approach is required. Isolation, containment and control – the underlying principles of SMM intervention – surely are not appropriate interventions for someone who is in psychological distress. There is a need for CSC to understand and address the conflicting goals of an SMM versus therapeutic response in situations of significant psychological or medical distress.

As things stand now, neither the revised policy nor the unchanged SMM provide sufficient guidance or scope for non-clinical staff to consider and apply principles to self-injurious behaviour informed by:

1. The least restrictive option
2. The most proportionate measure
3. The most appropriate (humane and safe) intervention
4. Clinical and/or dynamic risk assessment

An alternative response model would direct security staff to adopt a primary support role (i.e. ensuring everyone's safety) while the actual intervention, carried out by mental health professional(s), focuses on assisting the self-injurious offender. In correspondence to the Office, CSC stated that they "...share the OCI's concerns regarding mentally ill inmates and the

use of force." Punishing people for behaviours and emotions that they may not be able to regulate or control does not indicate that CSC shares the Office's concerns. That is the point of trying a different model and approach to managing self-injurious incidents in a prison setting. That is what the jury at the Ashley Smith inquest recommended and that is what CSC should do.

***7. I recommend that CSC develop a new, separate and distinct model from the existing Situation Management Model to address medical emergencies and incidents of self-injurious behaviour in partnership with professional mental health organizations.***

## Management of Complex Mental Health Cases

CSC is managing an increasing number of complex mental health cases with overlapping needs, such as major mental illness, personality disorder, cognitive impairment, learning disorder, substance abuse, or combination of any of those. To monitor offenders who are experiencing significant mental health concerns, including those who engage in chronic, repetitive self-injurious or suicidal behaviour, the Service has put into place Regional and National Complex Mental Health Committees (NCMHC). The national level committee meets monthly. It is comprised of senior executives and is chaired by the Director General of Mental Health. In addition to receiving updates and monitoring the progress of complex cases, the Committee reviews business cases which are required to access national funding that has been set aside to assist in the treatment and management of approved cases. This funding may be designated to conduct external or independent psychiatric assessments.

From April 1, 2015 to February 8, 2016, a total of 215 offenders with complex mental health needs were monitored at the regional

or national level. A number of these national-level cases were also the subject of review and intervention by this Office. They included a certified offender at a regional treatment centre who was subjected to repeated interventions by the Institutional Emergency Response Team in order to force compliance with medical treatment. This case was being managed by way of isolation, forced compliance, security and control without any clinical or therapeutic plan in place to treat underlying mental illness.

Another mentally ill male inmate was the subject of frequent transfers between maximum security facilities and treatment centres. He spent long periods in segregation where his chronic self-injurious behaviour was met by repeated use of force interventions. In still another case, a certified chronic self-injurious male offender accumulated numerous institutional charges at a Regional Treatment Centre while being physically restrained on a near continuous basis. In all three cases, the Office recommended transfer to an outside psychiatric facility for treatment and assessment and in each instance the CSC insisted that it could manage without external placements. These difficult and challenging cases continue to demonstrate the need for alternative service delivery options in federal corrections that would allow for transfers and placements of mentally disordered individuals in external psychiatric settings.

**8. I recommend that the Minister of Public Safety direct CSC to develop additional community partnerships and negotiate exchange of service agreements in all regions that would allow for alternative placement and treatment arrangements other than incarceration for significantly mentally ill federal offenders. These arrangements and agreements should be in place by the end of the current fiscal year.**

## **Systemic Review of Complex Needs Cases at the Regional Women's Facilities**

In 2015-16, the Office undertook a systemic review of 48 federally sentenced women whom the Service identified as meeting the requirements of a complex case and who were being monitored by the Regional and/or National Complex Mental Health Committees. Sixteen of the 48 women were monitored at the National level. Eight cases received complex case funding from National Headquarters (NHQ) to support the operational needs to support these women. Seventeen of the 48 women spent time in segregation over the past year, one exceeding 70 days.

One woman who was monitored at the regional and national levels died in federal custody due to her mental health problems. It was the first suicide at the regional women's facilities for several years. Although she was subject to regional and national monitoring, at the site level the institution did not receive any specialized complex case funding, despite the fact that her level of need and escalating degrees of self-lethal behaviour would appear to have met any diagnostic threshold.

Of those women who were identified as complex cases and for whom funding was provided, the Office could not readily decipher the value being added aside from the basic, consistent, and humane interactions that the extra staff provided. In some cases, funding was approved to conduct an external psychological assessment, however, there were no additional resources provided to help the institution implement the clinical measures recommended by the outside expert. The Office questions whether a mainstream institution is the right place to implement complex clinical plans; Regional Treatment Centres and external hospitals are more suitable therapeutic environments.

During site visits, investigators found that front line staff working with complex cases was often unaware that clinical management plans were in place to support offenders' complex mental health needs. This is a long standing concern compounded by the fact many of these women must be managed at the regional facilities due to lack of bed space at the Regional Psychiatric Centre (RPC), CSC's only dedicated treatment facility for federally sentenced women.

There are a number of women who were being monitored at the regional and national level who sought treatment at the RPC but were denied for a variety of reasons. As an alternative to admission to a treatment centre, CSC can provide funding to support the complex case at the parent institution; however, the physical infrastructure of the secure environments at the regional facilities remains a challenge for adequate treatment. Nova and Fraser Valley Institutions for example, house secure women in two maximum security pods. Complex cases take up a great deal of resources. When these women become dis-regulated, as they often do, they can have a significant impact on other women who are living with them.

Our Office spent considerable time in the maximum security Secure Units over the past year. Despite the best intentions of dedicated staff, the population pressures and limitation on the physical infrastructure provide few options for these women to access quiet time and benefit from therapeutic environments. For example, during one site visit, staff were simultaneously managing three complex cases in the Secure Unit, which consists of two pods housing approximately ten women. During this visit, the options for these women to access quiet time was the segregation range, the cement yard, the program room and/or interview room. Even when staff sought actively to accommodate the needs of the complex needs women, the routine of the

Secure Unit could not offer meaningful access to a therapeutic environment.

Moreover, the other women living in close proximity to complex cases often become frustrated with the conditions of confinement that flow from the behaviour of the women who engage in chronic self-injury. They consequentially spend more time locked up as staff must secure the units to respond to the complex cases. They also indicate that their opportunities for work/programming are daily affected by various incidents related to the mental health problems of a few individuals. In fact, this was a common complaint from the women who live in the Secure Unit in two of the five women's facilities that were managing acute complex cases. The Office received numerous complaints related to ongoing cell re-locations, lock downs, cancelled programs, and general concerns related to the dis-regulated behaviour of the women who suffer from acute mental illness. The Office received similar feedback from other external stakeholders, who report that women are seeking quiet time in the administrative segregation unit just to escape the unfavourable conditions that prevail in pod living.

**9. I recommend that internally allocated specialized complex case funding should not be used as an alternative to seeking placement in an external treatment facility and that the CSC allocate funding for treatment beds commensurate with diagnostically identified needs.**

# 2

## PREVENTION OF DEATHS IN CUSTODY



The Office reviews all CSC investigations resulting in serious bodily injury or inmate death. In 2015-16, the Office conducted nearly 200 such reviews.

### Reviews by Type of Incident

Type of Incident	#
Assault	43
Attempt Suicide	12
Death	5
Death (Natural Causes)	63
Injuries	31
Murder	1
Overdose	30
Self-Mutilation	2
Suicide	9
<b>Total</b>	<b>196</b>

## New Reporting Format for Board of Investigations

Section 19 of the *CCRA* mandates that the Correctional Service investigate all deaths in custody as well as incidents resulting in serious bodily injury. During the reporting period, CSC adopted a new streamlined format for what is referred to as National Board of Investigation (or NBOI) reports. With a new focus on narration and “story-telling,” these changes ostensibly respond to a number of identified and perceived problems, namely that NBOI reports tend to be long, repetitive and too narrowly focused on compliance. Often completed many months (or even years) after the incident in question, access to the reports is restricted and they are not widely read.

The Office has often questioned the impact of section 19 investigations in correcting system-wide deficiencies. The same type of incidents are investigated over and over again with many of the same findings and concerns repeated from one investigation to the next. For example, a January 2016 “lessons learned” bulletin published by the Investigations Branch noted that, with respect to the theme of emergency staff response – e.g. medical response, video recording on incident, initial response, adherence to emergency directives – “the timeliness, quality and completion of these sub-categories were identified as concerns, although quality was the greatest concern.”<sup>8</sup> The Office identified these concerns nearly a decade ago in its first major deaths in custody study published in 2007.

The reasons behind the changes to the reporting format are of limited interest to the Office, however, some of them point to major issues in respect to the overall quality, comprehensiveness, and utility of these internal investigative reports. For example, the new reporting format provides much less detail on the manner in which the investigation was conducted, time spent on site or whether there were any difficulties in getting access to documents or witnesses. Persons interviewed and the documents consulted as part of investigation are also no longer included.<sup>9</sup> Other changes make it difficult for the Office to assess the investigative lines of inquiry pursued by the boards of investigation. Moreover, compiling a separate list of so-called “secondary findings” and setting limits on the length of the report, including the analysis section, may have a direct impact on the ability of board members to provide complete or adequate analysis of the issue under investigation. These changes effectively serve to further dilute or side-step the essential issue of accountability.

<sup>8</sup> CSC (Incident Investigations Branch) “Staff Information Bulletin: Lessons Learned – Boards of Investigation” (January 2016).

<sup>9</sup> As of March 2016, this information is now annexed to the investigation report.

Over the last quarter of the reporting period, the Office received some very poor quality and less than thorough investigative reports. In one case, the report was so incomplete and inadequate that the Office recommended that the investigation be reconvened. In another case, the body of a deceased inmate was removed from his cell and left uncovered in the hallway for three and a half hours before the police and coroner arrived on the scene to investigate. Officers stood watch and walked over the body while conducting rounds, leading to concerns that a possible crime scene had not been properly secured and preserved. This finding was considered “supplementary” as it was determined not to have had a direct impact on the outcome of the incident.

The Office is particularly concerned that the new report format no longer allows for psychological reviews, which were mandatory for all investigations into prison suicides prior to the adoption of the new reporting guidelines. Produced by a mental health professional who was a member of the Board, these professional reviews were annexed to the investigation report. In September 2014, the Office’s investigation of 30 inmate suicides that occurred in the three year period between 2011 and 2014 included a specific recommendation that:

Psychological autopsies conducted in the course of investigations into prison suicides should be expanded to determine possible underlying causes and comparative profiles of other inmates who had committed suicide.

In February 2015, CSC’s response mentioned that “although the psychological autopsy is a known approach to understanding suicide, there is no standard format for completing the process. For several years, CSC has been including the completion of a comprehensive psychological review as part of the mandate of every Board of Investigation into a suicide.”

Even though CSC did not consider these reviews to be “psychological autopsies,” in fact they followed a comprehensive and recognized format consistent with international practices in suicidology studies. These specialist reviews covered relevant and thorough case information regarding history of substance abuse and mental health issues, as well as specifics about depression, suicidal ideation, previous suicide attempts, and an evaluation of potential motivations, complete with sources of information for all elements. These elements brought the exercise within the expectations of a psychological autopsy. What is now called a “Mental Health Review,” this section can be conducted by any “registered clinician,” which includes registered or licensed nurses.<sup>10</sup> More importantly, the information gathered through the new review process and disseminated in the report is not as complete or exhaustive on many clinical or psychological aspects.

In summary, the Office accepts that NBOI reports could be more reader-friendly and we share a mutual interest in increasing their visibility and impact across the organization. However, in the interests of introducing a new reporting structure to better tell the “story” of the case under review, the new shortened reporting format may actually be a step backward in better understanding the specific risk and preventive factors for serious bodily injury or inmate death. While CSC has made some improvements since the first of these reports was issued in the new format, they continue to be problematic. The Office will be closely monitoring the impact on the overall quality, timeliness and comprehensiveness of internal investigations.

**10. I recommend that CSC retain, as a mandatory requirement, that a psychological review/autopsy be conducted by a registered mental health clinician into each and every prison suicide.**

<sup>10</sup> In March 2016, CSC changed this requirement so that the Mental Health Review is now conducted by a psychologist.

## Third Independent Review of Deaths in Custody

In October 2015, the third Independent Review Committee (IRC) of Deaths in Custody reported their findings and recommendations on non-natural deaths (suicide, murder, overdose, accidents) that occurred in federal custody. Some familiar themes to this Office were reported by the independent reviewers:

A recurring, implicit theme in many of the Boards of Investigation reports was one of ‘nothing could have been done to prevent this death’ because ‘he contracted for safety but took his life anyway’ or ‘he chose not to seek help, or he evidenced forward thinking, therefore his death was not preventable.’ In closing, the findings of the Boards of Investigation conclude that the majority of the suicides could not have been prevented. This conclusion is inconsistent with the recent trends in the suicide literature.<sup>11</sup>

### Case Study

#### Key Findings of the Third Independent Review of Deaths in Custody

The IRC reviewed 23 of 46 non-natural deaths that occurred in CSC custody between 2011 and 2014. Of the 13 prison suicides independently reviewed, key findings include:

- 26% were in administrative segregation at the time of their deaths.
- In almost two thirds of these deaths [64%], there was an identifiable stressor in the offender’s file.
- Ten of the thirteen (77%) individuals who committed suicide had prior identified mental health disorders.
- Only eight (62%) were documented to have received a suicide risk assessment. Six (75%) were deemed to be low risk and 2 (25%) were identified as moderate risk. None were identified as high risk.
- In nine (69%) of these cases there was a recording of a previous suicide attempt and in five cases (38%) there was a history of repeated self-harm that was not considered suicidal in nature.

The Boards of Investigation reports concluded that the majority of deaths by suicide could not have been prevented.

<sup>11</sup> Yvette Thériault, Alan Leschied, and Shelly Brown, *Third Independent Review of Deaths in Custody* (April 1<sup>st</sup> 2011 to March 31<sup>st</sup> 2014), October 2015.

Overall, the third IRC concludes that some prison suicides were preventable, if not predictable. The Committee notes that there is overall room for improvement in the areas of dynamic security, case management, suicide prevention and intervention, especially better assessment and closer monitoring of suicide risk factors. It makes the important point that non-suicidal self-injury (such as head-banging) is a risk factor for later lethality. The report also discusses prison suicides that occur shortly after hospital discharge and/or contacts with mental health professionals in prison. The Committee recommends that current assessment procedures (e.g. screening tools and clinical interviews for suicide risk) need to be “revised considerably and the results clearly communicated to correctional staff at all levels of care.” I concur.

With respect to prison suicide, the Committee reaches many of the same conclusions as this Office, particularly with regard to screening, assessment and identification of suicidal risk and/or intent. In and of itself, this concordance may not be all that surprising given that the IRC reviewed many of the same 30 suicides that were part of the Office’s three year review of federal inmate suicides (2011-2014). That said, the failure to learn from repeated mistakes or make sustained progress over time has to be one of the most frustrating aspects of these “reviews of reviews” of deaths in custody. In September 2014, I concluded my own review of 30 prison suicides with this observation:

A major though incalculable obstacle to CSC’s prevention efforts remains an organizational belief that prison suicides are rare, isolated or unexpected. In most post-incident reviews of prison suicides, there is a sense that nothing further could have been done to prevent a suicidal, mentally ill or self-injurious inmate with access to means and method from taking their own life. The impression remains that most suicide deaths in custody, however tragic or pre-indicative, are simply beyond the reach of current prevention or corrective measures.

Though the IRC report was perhaps less muted in its criticism, arguably its most unique and strongest contribution is to put into renewed question CSC’s conclusion that the majority of prison suicides could not have been prevented. As the third IRC and my own Office document, there were either known immediate precipitating factors or other proximal circumstances or influences that indicated elevated risk or intent of suicide.

***11. I recommend that CSC publicly release the third Independent Review Committee report on deaths in custody and the action plan responding to the report’s findings and recommendations.***

## Findings of the Office’s Review of Prison Overdose Incidents

In the reporting period, the Office reviewed 85 investigation reports that involved 105 incidents of overdoses occurring in CSC facilities between 2012/13 and 2014/15. In conducting this review, the Office expected that, given the focus and enhanced measures in place to limit access to drugs and other contraband in federal penitentiaries, these investigative reports would be an important source of information to CSC management in determining whether drug interdiction efforts and resources are having the intended effect.

The intentions of the inmates involved in overdose are not easy to determine by retroactive investigations; some overdoses were deemed to be a suicide attempt, though the majority were determined to be accidental. In 11 cases, the result of the overdose was lethal. Only one of the fatal overdoses was retroactively determined to have been a

suicide. Regardless of intent, in all cases these incidents were of sufficient seriousness to have warranted the Service to convene a board of investigation into their causes.

The inmate profile data gathered is informative but not necessarily representative. The majority of inmates involved in overdoses were aged between 30 and 49. Indigenous male inmates are slightly over-represented in overdose incidents, though four of the five women involved in overdose incidents were Aboriginal. In terms of risk profile, just over half of all inmates involved were serving their first federal sentence, and over two-thirds had served less than a year. Most incidents occurred in medium security facilities. Ontario and Prairie Regions accounted for the majority of overdose incidents. Though this review remains preliminary, key findings are summarized below.

1. For overdose incidents involving men offenders, prescribed medications were the source of overdose in 31 cases and non-prescribed medications were the source in 10 cases (including two cases of methadone overdose).
2. In 11 cases, Fentanyl was identified as the source drug of overdose, heroin was involved in 18 cases, opiates of unknown nature in 10 cases and the remaining involved cocaine, synthetic marijuana and drug cocktails.
3. For the five women involved in overdoses, two incidents were categorized as suicide attempts. Prescribed medications were used in four of the five incidents.
4. In incidents involving men, the overdose was self-reported in only 9 cases. In the other 91 incidents, the inmate was found in medical distress (either reported by other inmates or discovered during security rounds).

With respect to information contained in the 85 Board of Investigation reports that examined 105 incidents, the following findings are reported:

1. The Board does not mention whether or not the inmate ever participated, was recommended or assessed for participation in substance abuse programming in 26 cases.
2. In 17 reports, the Board fails to mention whether or not the inmate involved had a history of suicide attempt or ideation.
3. In 16 reports, the investigation does not mention whether the inmate had a history of mental health issues.
4. In 55 of 105 incidents, the results for dynamic factors in substance abuse were not mentioned.
5. In the 94 cases where death did not occur, the Board mentions that inmates were referred to substance abuse programs in only 10 cases. However, for most incidents, the report does not address or recommend referrals following overdose.
6. In nine cases, the inmates involved were reclassified to higher security following overdose.
7. There is no mention of whether the institution was in compliance with its search plan in 27 cases prior to the overdose. In 22 other cases, the institution was not compliant with its search plan.

As a follow-up, the Office will confirm and share the findings of our review of prison overdose incidents with the Service and request an action plan in response.

## Update on CSC Public Reporting on Prevention of Deaths in Custody

In May 2015, I received CSC's inaugural *Annual Report on Deaths in Custody 2013-2014*.<sup>12</sup> While the covering correspondence to the report indicates that it responds to an outstanding recommendation made in my report *A Three Year Review of Federal Inmate Suicides* (released September 10, 2014), in fact the original recommendation upon which it is based was first made more than five years prior in my 2009-10 Annual Report:

"I recommend that the Service publicly release its Performance Accountability Framework to Reduce Preventable Deaths in Custody in fiscal year 2010-11 and that this document serve as the public record for tracking annual progress in this area of corrections."

Despite a number of attempts, the original recommendation was never satisfied, which is why I felt compelled to repeat it over the years, most recently in the Office's review of inmate suicides.

It is therefore surprising and disappointing that the ongoing focus and purpose of this work is either missing or misrepresented in the Service's *Annual Report on Deaths in Custody*. Devoid of context, there is not one single reference to any report, finding or recommendation of this Office or the Service's response. In fact, there is no discernible focus or direction to this report, no analysis or review of measures to be taken or no progress report. In an exchange of correspondence with the Commissioner on this matter, I indicated that the response was inadequate and deficient on these and three other related grounds:

1. Though natural cause deaths are now the leading cause of mortality in federal corrections, the report shows little engagement, priority or understanding of the issue. It makes no serious attempt to identify or address the drivers behind the upward trend in natural mortality behind bars, most of which is now well-known to CSC – e.g. aging inmate population, chronic illness/disease prevalence among an aging and institutionalized population, accumulation of long-serving/indeterminate sentenced offenders, untreated health conditions. The fact that inmates continue to die prematurely in CSC facilities – on average between 60 and 62 years of age – is not addressed.
2. It appears that this document is meant to somehow replace the *Annual Inmate Suicide Reports*, which were discontinued after 2010-11. Even if the Service's intentions were to respond to my recommendation by simply providing an "enhanced" version of the moribund *Annual Inmate Suicide Report*, it still falls far short of the mark in terms of providing equivalent data, information and analysis. Social and mental health background, risks and pre-indicators of suicide, significant findings and recommendations from National Boards of Investigation, issues identified by Coroners, corrective measures aimed at mitigating organizational risk are not included.
3. There is little indication that this report reflects an integrated perspective. It does not appear to have been widely shared or extensively vetted. For example, CSC's latest analysis of mortality reviews of deaths dating back to 2011 is not referenced, nor is the Service's response to the Ashley Smith inquest, though both efforts presumably fall within the reporting period. There is no analysis or reference to major

<sup>12</sup> The report is dated February 27, 2015 and posted at: <http://www.csc-scc.gc.ca/publications/005007-9002-eng.shtml>

findings from CSC's internal boards of investigation, no identification of corrective measures that have been implemented in the reporting period or how the present report will inform prevention efforts going forward.

Most important perhaps, the report fails to provide a set of key performance indicators and corporate plans that could be used to benchmark and assess the Service's progress in preventing future deaths in custody. At best, the first annual report serves as a statistical roll up of deaths that occurred in CSC facilities in 2013/14; it is not an accountability framework or a public progress report that would help the Service to transparently reduce, avert or prevent deaths in custody. I conclude that the intent of my recommendation has still not been met several years after it was first issued. The *Annual Report on Deaths in Custody* exercise is not complete, not credible and unresponsive to the recommendation it purportedly addresses. I expect to see these concerns addressed in CSC's subsequent public reports.

## National Forum for Preventing Deaths in Custody

The lack of responsiveness, public transparency and accountability in CSC's overall effort and response to preventing deaths in custody is increasingly problematic. There is as much need today as there was when I first called for the creation of a national forum for preventing deaths in custody. This independent high level review and information sharing body would be empowered to monitor the number or rate of deaths in federal prisons, provincial and territorial jails, as well as law enforcement and immigration detention facilities. A National Forum, similar

to the United Kingdom's Ministerial Council on Deaths in Custody, could be a complementary measure to the government's stated commitment to sign and ratify the UN *Optional Protocol on the Convention against Torture* (OPCAT).<sup>13</sup>

The UK model is particularly instructive as it incorporates an independent and expert advisory body with Ministerial accountability. Canada would be well served by replicating a similar structure here, a measure which would send a strong signal about the importance of prevention of deaths in custody and implementing best practices. With respect to the *OPCAT*, inspection of all federal places of detention could benefit from a joined-up approach, combining other national policing (RCMP), immigration (CBSA), public safety (CSC), national defence and their respective review bodies. Establishing a national forum for prevention of deaths in custody similar to the UK model, together with the government's stated intention to sign the *OPCAT*, could be central mechanisms for enhancing Ministerial oversight across the entire Public Safety portfolio while demonstrating federal leadership with provincial and territorial partners.

**12. I recommend that the Minister of Public Safety work with provincial and territorial counterparts to create an independent national advisory forum drawn from experts, practitioners and stakeholder groups to review trends, share lessons learned and suggest research that will reduce the number and rate of deaths in custody in Canada.**

<sup>13</sup> The *OPCAT* requires the signatory countries (which now number more than 80) to allow all places of detention to be inspected by a national and international independent monitoring mechanism.

# 3

## CONDITIONS OF CONFINEMENT



## Use of Force Reviews Conducted by the Office

The Office reviewed 1,833 use of force incidents in 2015-16, an increase of 22% over last year.

### Issues of Concern

- Aboriginal offenders (25% of the population) accounted for 30% of all use of force incidents reviewed, which was similar to the previous fiscal year.
- Black offenders (10% of the population) accounted for 18% of all use of force incidents reviewed, an increase of 3% compared to last year.
- 14% of use of force interventions were in response to incidents of self-injury.
- 39% of all use of force incidents reviewed occurred in the offender's cell.
- 36.6% of all incidents involved offenders with a mental health issue identified by the Service. 40.95% of use of force incidents at CSC's treatment centres included the use of pepper spray.
- Overall, inflammatory agent(s) was used in 61% of all incidents.
- Compliance deficiencies:
  - The Situation Management Model not followed in 10% of interventions reviewed.
  - Decontamination procedures not followed in 31% of all incidents reviewed.
  - Post-use of force health care assessments deficiencies noted in 54% of all reviews.
  - Video recording procedures deficient in 77% of all reviews
  - Strip search procedures were not followed in 30% of all interventions.
  - Offenders alleged inappropriate levels of force used in 5% of all incidents reviewed.

## Special Focus on the Use of Inflammatory Agents in Corrections

### Introduction and Focus of Review

The Office reviews all use of force incidents occurring in CSC facilities. As per policy, CSC is required to provide all use of force documentation to the Office for review. This documentation typically includes:

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

The Office's review of use of force incidents over the past year has identified some concerning trends and new developments:

1. Use of force incidents in CSC facilities are increasing.
2. Increasing reliance on the inflammatory agents to gain inmate compliance, especially in higher security facilities.
3. Persistent lack of policy compliance (i.e. lack of use of handheld camera, decontamination procedures, strip searches, post-health care assessments).
4. CSC's use of force review framework fails to identify and correct systemic deficiencies.

In light of these trends, a thematic review of the increasing use of Oleoresin Capsicum (inflammatory, OC or pepper) spray in federal corrections was initiated during the 2015-16. The review included a trend analysis of all use of force reviews conducted by the Office, including a special focus on use of force in three maximum security facilities. The review also looked at CSC's internal use of force data to assess and compare incident-related trends against the Office's reviews.

## Themes

### Use of Force Incidents Involving Inflammatory Agents

Since 2011-12, the use of inflammatory agents has nearly tripled increasing from just over 500 to 1,443 uses in 2015-16.<sup>14</sup> The increase in use of force incidents can be largely attributed to the rising use of organic inflammatory agent, commonly referred to as OC (oleoresin capsicum) or pepper spray. The increasing resort to the use of these agents in use of force interventions suggests just how

widespread reliance on this tool has become at the expense of other, more dynamic and less invasive responses.

When CSC staff encounters a situation (e.g. a self-injurious offender, an inmate fight, disruptive behaviour) any intervention used to manage or control the incident must be consistent with the Situation Management Model (SMM). According to CSC policy, the SMM is meant to:<sup>15</sup>

- Promote the peaceful resolution of the incident using verbal intervention and negotiation.
- Be based on the safest and most reasonable measures to prevent, respond and resolve the situation.
- Be limited to only what is necessary and proportionate to attain the purposes of *Corrections and Conditional Release Act*.
- Respond to changes in the situation through continuous assessment.

Based on the SMM, there are a number of interventions that are possible such as verbal warnings, dynamic security, conflict resolution and negotiation moving to more invasive techniques such as physical handling, the use of an inflammatory or chemical agent, up to and including the use of batons and restraint equipment. Over the five year period, from 2011-12 to 2015-16 while the in-custody population actually declined by 3.4% the total number of interventions increased by 97% (from 1,600 interventions in 2011-12 to 3,148 in 2015-16). Increases were seen in the use of physical handling and restraint equipment as well as the use of inflammatory spray. The rate of use of inflammatory agent far surpassed that of physical handling or restraint equipment, accounting for the majority (60%) of the increase in the overall number of interventions used during a use of force incident.

<sup>14</sup> CSC Data Warehouse.

<sup>15</sup> See Commissioner's Directive 567: *Management of Security Incidents*

## Use of Inflammatory Agents

Inflammatory (OC) spray became standard issue for most correctional officers in September 2010 (although it took some time for all officers to be equipped with the duty belt issued pepper spray dispenser).<sup>16</sup> Prior to 2010, inflammatory sprays were locked up at designated control posts, which required staff to either obtain pre-authorization from the institutional head prior to its use or return to the



post to retrieve it.<sup>17</sup> At the Office's insistence, the display or pointing of an inflammatory agent became a "reportable" use of force in CSC policy in November 2011. From the third quarter of 2012-13 onward, the use of belt-issued inflammatory spray has steadily risen. In 2012-13, there were 198 interventions using belt-issued inflammatory agent and 237 uses of the Mark IX (control post) spray. By 2015-16, there were over 700 uses of belt-issued spray and 369 uses of the Mark IX. In the first quarter of 2015 alone (April to June), there were more than 200 reported uses of the Mark IV (standard issue) and 123 instances of the use of the Mark IX (control post) – the highest recorded usages of these agents in a single quarter.

### What is Pepper Spray?

The active ingredient used in inflammatory agents is oleoresin capsicum (OC), an organic agent derived from hot peppers. It is designed to cause a temporary burning sensation and inflammation of mucous membranes and eyes leading to involuntary closure. The Mark III and Mark IV (duty belt) aerosols contain 0.2% active ingredient, whereas the Mark IX (control post) contains 1.3%, a much higher and more potent concentration.

<sup>16</sup> The impetus to equip correctional officers with inflammatory spray has its origins in events and decisions involving a number of correctional officers at maximum security Kent Institution who, in July 2004, refused to return to the workplace without pepper spray on their duty belts. After a delayed series of actions and appeals, on March 29, 2010 the Health and Safety Tribunal of Canada (OHSTC) directed CSC to take immediate measures to ensure the safety and health of correctional officers. For reference see, *Armstrong v. Canada* (Correctional Service), 2010 OHSTC 6 (2010-03-29) accessed at: [http://www.ohstc.gc.ca/eng/content/html\\_archive/decisions2010/ohstc-10-006.shtml](http://www.ohstc.gc.ca/eng/content/html_archive/decisions2010/ohstc-10-006.shtml). See also, CSC, *Evaluation Report: Ontario Region Oleoresin Capsicum (OC) Inflammatory Spray Pilot Project* (May 2010) accessed at: <http://www.csc-scc.gc.ca/text/pa/ocspray/index-eng.shtml>.

<sup>17</sup> CSC policy authorizes inflammatory agents to Correctional Officers/Primary Workers, to be to be worn on their person, who are working in direct contact with inmates at, or from: i. maximum security institutions, including maximum security units of clustered sites; ii. medium security institutions, including medium security units of clustered sites; iii. multi-level security institutions, not including minimum security units located outside of the institutional perimeter, or Okimaw Ohci Healing Lodge.

The increase use of inflammatory sprays (both duty belt and control post) occurred over the same time that the Service “streamlined” its use of force policy and review framework. A three tier use of force review system based on the type or level of force used was implemented in June 2012. Under the new system, “moderate” uses of force are subject to regional (level 2) review in only 25% of cases. A national review involves a “random” sampling of just 5% of the incidents reviewed at the regional level. Effectively, unless a use of an inflammatory agent is “flagged” or somehow makes its way up through the “random” selection process, it may never be reviewed by regional or national authorities. Most “routine” uses of inflammatory agents fall into that category, subject to a cursory review at the institutional site level only.

The Office has commented extensively about how these changes have effectively diluted the use of force policy and review framework, including this excerpt from the Office’s 2012-13 Annual Report:

It is my view that it is inappropriate to leave review of use of force incidents to random selection. Experience and common sense dictate a need to both assure and ensure force is used appropriately, judiciously and proportionately in a correctional setting. Reliable mechanisms must be in place to record, review and report use of force incidents. Previously, national authorities reviewed all use of force events that occurred in CSC facilities across the country, but as a result of these new policy directives, they are now “randomly” reviewing just 5% of the over 1,200 reported incidents annually. Surely the point of having a use of force review process is to hold the organization

to account by identifying areas of non-compliance and correcting deficiencies. It is simply not wise to dilute oversight or download accountability for this high-risk activity.

As much as ever before, this commentary holds. Despite a series of recommendations and interventions from this Office, the dramatic increase in the use of inflammatory agents since 2010 tracks with a diluted use of force review and oversight framework and the ensuing decrease in accountability.

In February 2016, the Service promulgated new policy direction for the use of chemical and inflammatory sprays. The policy authorizes the use of the Mark IX (control post) spray in two situations: i) Non-routine carrying following a threat risk assessment for periods of up to 24 hours; and ii) Movement control officers or non-unit based designated first responders as identified by institutional standing orders in maximum security male facilities.

Prior to this policy direction, the Mark IX was stored in the control post. There is every reason to believe that these measures will result in routine use of the higher concentration inflammatory agents in CSC facilities. It is instructive to note that increases in the use of the more potent Mark IX control post agent began to significantly increase as the belt-issued canisters came into common usage. Indeed, there seems to be a contagion or reinforcing effect at play in the use of these agents.

The Service continues to defend the use of inflammatory agents as a staff and inmate safety measure. However, a review of the number of serious security incidents (e.g. assaults on inmates, assaults on staff and inmate fights) shows that these incidents

## Case Study

### Use of Force Recommendations (2009-10 to 2014-15)

*2009-10 Annual Report:* I recommend that all incidents that involve the use of chemical or inflammatory agents, or the displaying, drawing or pointing of a firearm, up to and including its threatened or implied use, should be considered a reportable use of force.

*Unauthorized Force: An Investigation into the Dangerous Use of Firearms at Kent Institution (March 2011):* The Service should commission an expert and independent review of its legal, policy and administrative frameworks governing use of force interventions in federal penitentiaries. This review should identify gaps and deficiencies in the use of force review process and include recommended measures to strengthen accountability, monitoring, oversight and corrective functions at the regional and national levels.

*2011-12 Annual Report:* I recommend that CSC's use of force review, accountability and monitoring framework be significantly strengthened to include a mandatory National review of all uses of force interventions where a mental health issue or concern is identified.

*2012-13 Annual Report:* I recommend that any use of force incident involving a mentally disordered offender be subject to a mandatory review at the institutional and regional levels. Issues of non-compliance should be submitted to National Headquarters for review and identification of corrective measures.

I recommend that regional authorities review all use of force incidents involving the use of Institutional Emergency Response Teams.

*2014-15 Annual Report:* I recommend that the Office of the Auditor General of Canada consider a compliance audit of the CSC's use of force review process.

have remained relatively constant since 2010.<sup>18</sup> There appears to be no direct or causal link between the degrees of institutional safety and the use of inflammatory agents. Indeed, there may very well be an inverse relationship, especially at maximum security facilities. As the Office has documented, there has been a

depreciable decline in the use of verbal skills, negotiation and de-escalation techniques specifically, and dynamic security more generally, a trend that has only intensified with the standard issue of inflammatory spray in CSC facilities.

<sup>18</sup> CSC Data Warehouse, April 29, 2016.

## Use of Force Incidents involving self-injurious offenders

The increasing use of and reliance on inflammatory sprays to manage security situations, including those involving self-injury, is a matter of growing concern to the Office. Of the 157 reported uses of force incidents involving a self-injurious offender in 2015-16, inflammatory agent was used in over half of these incidents. From 2011 to 2014, inflammatory spray was used in 43% of all use of force incidents involving a self-injurious offender. These rates increased to 48% in 2014-15 and 54% in 2015-16. In 2015-16, of the 16 instances where force was used on an offender attempting suicide, half involved the use of inflammatory spray.<sup>19</sup> Outcomes such as these cannot be considered desirable or appropriate from a therapeutic, human rights or even security perspective. As previously discussed and noted in the Ashley Smith inquest, these challenging situations call for a different intervention model.

## Review of Use of Force Incidents in Maximum Security Institutions

The Office's review of use of force incidents in three maximum security facilities found that inflammatory agents have largely displaced verbal interventions and strategies of conflict resolution, such as negotiation and de-escalation, to manage active or threatened incidents of self-inflicted injury. In some instances, the frequency and amount of inflammatory spray used to manage an incident appears disproportionate to the incident in question. 57% of use of force incidents that

occurred in maximum security institutions in 2015-16 involved the use of inflammatory agents.

Key findings from this review indicated the following:

1. Handheld cameras are not consistently deployed during so-called "spontaneous" use of force, or are often turned on hours after the incident has occurred only to capture the post-use of force health care assessment. There were several documented examples where officers had sufficient time to go back to the control post to retrieve other inflammatory or chemical agents, batons and/or shield, but failed to bring the handheld camera back to the scene of the incident.
2. While range videos are often provided with the use of force package, they do not provide a good line of sight and are unable to capture any use of force interventions that occur in-cell. The overall lack of handheld video recordings in use of force incidents makes it difficult to review or evaluate the appropriateness of the interventions that were employed during the incident. Inadequate records of these events translate into insufficient accountability and missed opportunities for continuous learning and correction.
3. Post-use of force strip searches and decontamination showers are sometimes not video recorded as per Commissioner's Directive 567-1: *Use of Force*.
4. Decontamination showers are sometimes not offered or provided hours after the actual incident (2.5 hours in one case). CSC policy does not specify how soon an inmate should be decontaminated following an incident. In some cases, offenders were not offered clean clothes following decontamination.

<sup>19</sup> CSC Data Warehouse, April 29, 2016.

5. Post use of force physical assessments are often not video recorded as per policy (CD 567-1: *Use of Force*). Of the physical assessments that are completed, they tend to be very superficial in nature, often occurring through the cell door or food slot. Inmates are generally only asked if they have anything to report and not explicitly asked if they want a proper post use of force physical assessment.
6. Physical assessments are often conducted in areas where the inmate's privacy is compromised and/or occur hours after the incident has occurred.
7. Use of force reviews at the institutional level are often not completed within 20 working days of the incident as per CD 567-1: *Use of Force*. There are instances of videos being reviewed more than two months after the incident occurred. It is difficult to address issues and ensure timely corrective action when videos are reviewed months after the incident has occurred.

## Policy Framework for Chemical and Inflammatory Agents

In February 2016, the Service promulgated a revised version of Commissioner's Directive (CD) 567-4: *Chemical and Inflammatory Agents*. The revised policy appears to instruct staff that they are no longer required to report the display of a chemical and inflammatory agent as a use of force. The revised policy defines "use" of a chemical or inflammatory agent only when it is "intentionally aimed at an individual or dispensed to gain compliance." This policy reversal is unacceptable. It further erodes an already inadequate and weak use of force review framework.

This Office was instrumental in the CSC requiring officers to account for their actions when they remove or display an inflammatory agent in an effort to gain inmate compliance. Reporting these situations reflects the fact that these agents are weapons and need to be seen as such. From the Office's perspective, every time an officer brandishes, removes, displays, waves, points or otherwise threatens the use of these agents it should be considered a reportable, and therefore, reviewable use of force. This is the standard that the wider law enforcement community is held to account and it ought to be the same for federal corrections.

## Key Findings and Conclusion

The Office's review of use of force incidents involving inflammatory agents yields five concerning findings:

1. The standard issuing of organic inflammatory agent to front-line officers has contributed to a significant increase in the number of reportable use of force incidents in CSC facilities.
2. The rising use of inflammatory spray in CSC facilities tracks with a corresponding increase in the use of higher concentration control post inflammatory agents.
3. Inflammatory sprays are increasingly being used to manage incidents involving prison self-injury and incident where a mental health concern is identified.
4. The dramatic increase in the use of inflammatory agents coincides with CSC efforts to "streamline" its use of force reporting and review framework.
5. The accountability for and oversight of use of force incidents involving inflammatory agents has been substantively eroded.

The Office concludes that the current use of force review and control framework for inflammatory agents is not sufficient or adequate to ensure their reasonable and proportionate use in CSC facilities.

**13. I recommend that:**

- ***The removal, display or threatened use of a chemical and inflammatory agent should be properly and immediately reinstated as a “reportable” use of force in CSC’s use of force policy and review framework.***
- ***CSC should conduct an immediate review of the factors behind the increasing use of inflammatory agents in CSC facilities and assess whether additional review and accountability controls are required to ensure their safe and proper use.***
- ***CSC policy should require shower and wash as soon as possible following the use of or contamination by an organic inflammatory agent, with any delay of more than 20 minutes requiring notification of the Institutional Head.***
- ***After each and every use of an inflammatory or chemical agent, the canister should be weighed and the volume discharged duly recorded. Officers should be held to account for the use(s) and volume of inflammatory agents discharged for each incident. These records should be shared regionally and nationally on a quarterly basis.***

While these recommendations will help, a shift in correctional culture and compliance with the least restrictive measure/principle is required. Ongoing and comprehensive training and vigilant management oversight and attention is required.

## Update on the Impact of National Cost-Savings Initiatives on Inmate Services

The roll out of a number of increasingly centralized services and national cost reduction measures is continuing to have a deleterious impact on conditions of confinement in federal facilities. The food services modernization initiative (‘cook-chill’) is a case in point. Based on an industrialized food production system, most raw food destined and served in federal penitentiaries is now prepared in large kettles and cook tanks, where it is pre-cooked, stored and chilled off-site for weeks at five regional processing sites. Prepared bulk-packaged food is then shipped back to the institutions where so-called “finishing” kitchens complete the “re-therming” process, adding whatever fresh food items may be set on the national menu for that particular day.

Based on a national set weekly cycle of meals, menu and ingredients, a per diem ration rate of \$5.00 per inmate per day and caloric nutrition and intake standards derived from Health Canada’s determination of male activity levels (sedentary, low active, active), the food being served at the end of this process is increasingly the source of inmate complaint. Aside from ongoing offender complaints related to portion size, selection and quality of meals now being served, this model of industrial food production means that fewer offenders than before now have the opportunity to learn culinary or food preparation skills under the guidance of professional cooks.

In April 2016, CSC introduced changes to inmate purchasing, specifically a single supplier for the provision of goods to inmates. This change flows from a much earlier May 2012 announcement, the stated aim of which was to increase offender accountability

by standardizing the approach to inmate purchasing across the country. The Office was surprised to learn that this measure was being implemented four years after the initial announcement.

The content of the national inmate purchasing catalogue is problematic. The quantity and quality of items offered is inadequate and the prices are far frequently more expensive when compared to those in the community. Many institutions provide inmates, free of charge, adult diapers and feminine hygiene and health products given these items are essential for hygiene and health. The Office questions why these items are now included in the catalogue. The same applies for other essential items traditionally provided, such as wool socks, dietary supplements and over-the-counter medication.

While the reduction in choice of clothing, footwear, music, electronic material such as CD players, televisions, and other items frequently purchased by inmates, may reduce the amount of work for CSC staff, it will also unreasonably limit the few residual freedoms left for inmates and further harden the institutional climate. With respect to pricing, the Office notes that the only television set listed in the catalogue is at least three times the price offenders currently pay. Electronic device prices are so high that offenders purchasing the television set from the catalogue will have surpassed by over 20% of the allowable dollar value of authorized items.

The prices of many other items in the catalogue are 50% to 100% above prices listed in the community.<sup>20</sup>

Given the continued and progressive erosion of inmate purchasing power over the last several years – e.g. the decades old inmate payment freeze, the loss of CORCAN incentive pay, the added phone and increased room and board deductions for inmates – the introduction of a sole source supplier charging higher prices is inappropriate, unreasonable and unfair. It bears reminding that the maximum amount that a federal inmate can earn while gainfully employed in a federal penitentiary was set at \$6.90 a day more than 30 years ago.<sup>21</sup> Less than 9% of the current population makes the maximum daily rate; the largest proportion of the inmate population earns level C pay which is \$5.80 per day.

As part of a series of “offender accountability” measures introduced in April 2014, inmates now bear a greater proportion of the costs to keep them fed and cared for behind bars. After all deductions are factored,<sup>22</sup> my Office estimates that the net payment for a typical offender employed full time in a prison industry and earning the maximum payment level amounts to about 30 cents an hour.<sup>23</sup> Despite inflation, inmates have not had a payment increase in 30 years even though CSC’s own figures show costs have risen by at least 700%. Inmates are now also expected to use their payment/allowance to purchase items

<sup>20</sup> The prices reflected in the national catalogue include the cost of delivery. According to CSC, while regional price variations may exist, the prices were established as nationally competitive by Public Services and Procurement Canada.

<sup>21</sup> In fact, when the inmate payment system was originally introduced in 1981 it was linked to 15% of the federal minimum wage. In 1986, the federal minimum wage increased from \$3.50 to \$4.00 per hour, which is the last time that the inmate payment system was indexed to inflation. The original payment system factored in a deduction from inmates for the cost of room, board and clothing. Allowance levels (\$2.50 and \$1.00) were not introduced until 1998. Today, the federal minimum wage rate is calculated by the prevailing minimum wage of the province in which work is performed. In most provinces, the minimum wage is \$10.50 per hour.

<sup>22</sup> See textbox on accompanying page for full list of deductions.

<sup>23</sup> CSC notes that while hours are not specifically tracked, the typical inmate workday is usually around 6 hours per day.

that the CSC no longer provides such as soap, shampoo, deodorant, stationary and stamps.<sup>24</sup> The loss of CORCAN incentive pay compounds this long-standing problem of erosion of inmate purchasing power. There is, in fact, at the end of the week, very little left to be set aside for savings or maintain contact with families, let alone to purchase commonly required hygiene items. Lack of resources upon release remains a significant barrier to remaining crime-free after a period of incarceration.

**14. I recommend that CSC suspends the introduction of the new inmate purchasing system, and proceed with in-depth, meaningful consultations with all stakeholders, including this Office, Inmate Committees and front-line staff.**

**15. I recommend that the Minister of Public Safety initiate a review of the inmate payment/allowance system in federal corrections.**

Payment/Allowance Level	Per Day	Proportion of the Inmate Population
A	\$6.90	8.6%
B	\$6.35	16%
C	\$5.80	37%
D	\$5.25	6.1%
Allowance	\$2.50	30%
Basic Allowance	\$1.00	2.3%
Zero	\$0.00	

<sup>24</sup> CSC provides inmates with a credit of \$4.00 per payment period (every two weeks) for the purchase of health and hygiene items.

## Issue in Focus

### Inmate Payments/Allowances

**Maximum Inmate Payment (Less than 9% of inmate population receives the maximum amount)**



**\$6.90 / Day**

#### Deductions (Per Day)\*



**25% Reimbursement for any Indebtedness to the Federal Crown**

Court orders, Canada Revenue Agency “request to pay”, costs awards to the Federal Crown, other monies owed to the Federal Crown and fines/ restitution resulting from a disciplinary hearing.



**22% Food and Accommodation**



**8% Inmate Telephone Administration Fee**



**15% Inmate Welfare Fund\*\***



**10% Mandatory Savings**

#### Net Daily Pay



**\$1.95**

Amount available for canteen purchases, telephone calls, family visits .....

\* Based on the maximum deduction allowed/ required. With the exception of inmates who do not owe any reimbursements to the Crown, most inmates pay these amounts in full. All amounts shown are rounded to the nearest \$0.05.

\*\* Inmate Welfare amounts vary by institution. Amount shown is based on an average-sized medium security institution.

# 4

## INDIGENOUS CORRECTIONS



In January 2016, the Office reported that the federal correctional system reached a sad milestone – 25% of the inmate population in federal penitentiaries is now comprised of Indigenous people. That percentage rises to more than 35% for federally incarcerated women. To put these numbers in perspective, between 2005 and 2015 the federal inmate population grew by 10%. Over this same period, the Aboriginal inmate population increased by more than 50% while the number of Aboriginal women inmates almost doubled. Given that 4.3% of Canada's population is comprised of Indigenous Peoples, the Office estimates that, as a group, they are incarcerated at a rate that is several times higher than their national representation.

Over the last decade, the Prairie Region (Manitoba, Saskatchewan, Alberta, and the North West Territories) has led growth in the incarcerated population in federal corrections. It is now the largest of CSC's regions, both in geographical size and offender population. It also has the largest concentration of the Aboriginal inmate population in federal corrections. Today, 47% of the inmates in the Prairies are Indigenous. Some institutions in the Prairie Provinces can be considered "Indigenous prisons:"

- Regional Psychiatric Centre (Saskatoon) = 61%
- Stony Mountain Institution (Manitoba) = 58%
- Saskatchewan Penitentiary = 59%
- Edmonton Institution for Women = 55%

A history of disadvantage follows Indigenous peoples of Canada into prison and often defines their outcomes and experiences there. Indigenous inmates are more likely to be classified as maximum security, spend more time in segregation and serve more of

their sentence behind bars compared to non-Aboriginal inmates. In 2014-15, the average proportions of time served before the first federal day parole supervision period and the first federal full parole supervision period was higher for Aboriginal offenders than for non-Aboriginal offenders (40.9% versus 37.1%, and 47.2% versus 45.5%, respectively). Moreover, Indigenous offenders are far more likely to be detained to warrant expiry or returned to prison for a technical violation of their release conditions.

Aboriginal people under federal sentence tend to be younger, less educated, and more likely to present a history of substance abuse, addictions and mental health concerns. A recent file review of the social histories of Indigenous women offenders indicates that over half of the women reported having attended or having had a family member attend a residential school. With respect to childhood events, two-thirds of their parents had a substance use issue and 48% of the file sample had been removed from the family home. Almost all of the women's files indicated the existence of previous traumatic experiences, including sexual and/or physical abuse, as well as substance mis-use problems.<sup>25</sup>

The latest year-end performance and accountability report for Aboriginal Corrections prepared by the Correctional Service<sup>26</sup> indicates several areas that require improvement in reducing the gap in correctional results and outcomes between Aboriginal and non-Aboriginal offenders. For example:

- In spite of faster entry into correctional programs and higher program completion rates, Indigenous offenders are still being released later and revoked much more often than their counterparts.

<sup>25</sup> CSC, *Social Histories of Aboriginal Women Offenders*, Emerging Research Results – ERR 14-7 (May 2014).

<sup>26</sup> CSC, *Aboriginal Corrections Accountability Framework, 2014-15 Year-End Report* (received by the Office on April 7, 2016).

- The percentage of Indigenous offenders receiving day or full parole on first release is declining while the percentage of Indigenous offenders released on statutory release is increasing. In 2015-16, 76.9% of all Indigenous persons released from a federal penitentiary were by statutory release.
- Parole hearings are much more likely to be withdrawn or waived for Indigenous offenders.
- Challenges continue to exist in the application of Aboriginal Social History in significant decisions affecting Indigenous offenders, including segregation, security classification, penitentiary placement and return to the community.

The Office has also recently received several complaints from inmates at two institutions regarding the obligation for minimum security inmates to be approved for Escorted Temporary Absences (ETA) in order to be transferred to Section 81 facilities (Buffalo Sage and Stan Daniels Healing Centre). The justification provided by CSC officials was that the ceremonial grounds for these facilities are off-site and participation in these ceremonies is compulsory, as such in order to attend ceremonies, an ETA is required. This is not a requirement of the *Corrections and Conditional Release Act (CCRA)*; it appears to be yet another barrier preventing Indigenous offenders from fully participating in Aboriginal-specific provisions provided for in the *CCRA*.

These problems demand focused and sustained attention and a real commitment to change and reform. The appointment of a Deputy Commissioner for Aboriginal offenders is required to ensure an Indigenous perspective and presence in correctional decision-making. Though CSC claims that this measure would

lead to more bureaucracy and increased cost, I would simply point out that since I first made this recommendation more than a decade ago now, the Service has made little discernible or meaningful progress in narrowing the gap in key areas and outcomes that matter to Aboriginal offenders and Canadians. This commitment goes to corporate focus and establishing some political direction for federal corrections in light of the year-on-year increases in the national rate of incarceration of Canada's Indigenous Peoples. This addition to the executive management of the Service would demonstrate commitment to progress on this troubling file and support government of Canada commitments to fully respond to the work of the Truth and Reconciliation Commission.

**16. I again recommend that CSC appoint a Deputy Commissioner for Indigenous Corrections.**

## The Truth and Reconciliation Commission

On December 18, 2015 the Truth and Reconciliation Commission issued its final report *Honouring the Truth, Reconciling for the Future*.<sup>27</sup> In response, the Government of Canada has committed to implementing all of the recommendations. The goals are ambitious. Confronting and repairing the harm visited upon Aboriginal people as a result of colonialism and restoring a relationship among equals will not be easy. Ending the cycles of intergenerational violence, abuse and discrimination that find their way into our jails and prisons will require deliberate and sustained action.

<sup>27</sup> Accessible at: <http://www.trc.ca/websites/trcinstitution/index.php?p=890>

## Gladue Sentencing Reports

The courts have made it clear that *Gladue* or Aboriginal social history factors (e.g. effects of the residential school system, experience within the child welfare or adoption system, level or lack of formal education, poverty and poor living conditions) must be considered whenever the liberty interests of an Aboriginal person are at stake. CSC has extended the application of *Gladue* factors to correctional decision-making which means that the social history of an Aboriginal offender must be considered in security classification, penitentiary placement, institutional transfer and administrative segregation decisions. Despite this policy directive, as I reported in my 2014-15 Annual Report, there remains insufficient and uneven application of *Gladue* social history considerations in correctional decision-making. For example, investigators regularly find only a brief reference in an Aboriginal offender's file that Aboriginal social history was considered in a correctional decision that impacts retained security and liberty interests. Beyond that, there is often little explanation of how *Gladue* factors were actually considered, incorporated or applied to the decision.

Over the reporting period, the Office became aware of a promising initiative at Bowden Institution in Alberta that concretely applies the factors found in *Gladue* sentencing reports<sup>28</sup> to inform decisions regarding the security classification of Indigenous offenders. As part of the Aboriginal Strategy at Bowden Institution, a number of files of Indigenous offenders were reviewed to include a thorough examination of the original *Gladue* report used for sentencing decisions, with a view to reconsidering security classifications

## The Truth and Reconciliation Commission

TRC's 'Calls to Action' impacting corrections:

1. Eliminate the overrepresentation of Aboriginal people and youth in custody over the next decade.
2. Implement community sanctions that will provide realistic alternatives to imprisonment for Aboriginal offenders and respond to the underlying causes of offending.
3. Eliminate barriers to the creation of additional Aboriginal healing lodges within the federal correctional system.
4. Enact statutory exemptions from mandatory minimum sentences of imprisonment for offenders affected by Fetal Alcohol Spectrum Disorder (FASD).
5. Reduce the rate of criminal victimization of Aboriginal people.

(maximum to medium or medium to minimum) of Indigenous offenders where appropriate. The institution was able to identify eight offenders who could be reclassified on the basis of factors identified in the *Gladue* reports. These eight have adapted well and at the time of writing this report, were reportedly safely integrated at the lower security level. These individuals will continue to be monitored over the next year. The institution is committed to continuing this important work and will target additional offenders over the coming months.

<sup>28</sup> A *Gladue* report is a type of pre-sentencing and bail hearing report that a Canadian court can request when considering sentencing an offender of Aboriginal background under Section 718.2(e) of the *Criminal Code*.

The approach taken by Bowden Institution is important because correctional authorities used the original *Gladue* sentencing report (often upwards of 50 pages or more when comprehensively completed). Correctional staff have access to a wealth of information through these reports. While some institutions prepare Aboriginal Social History reports that are based on the *Gladue* report, these are typically very short (often only a page in length) and contain primarily high level information. The original *Gladue* report, where it exists, is a much more complete source of information. Bowden Institution also provided a comprehensive analysis and evidence as to how the *Gladue* report impacted a decision, something my Office has identified as missing in most purportedly *Gladue*-informed correctional decisions to date.

In correspondence from the Service, the Office learned that CSC is in the process of training Regional Management Committee members on the consideration of Aboriginal Social History to ensure it is properly analyzed, considered and documented in CSC decision-making. While initiatives such as the above are important, it is clear that more dedicated *Gladue* training, support and resources are required to ensure that meaningful *Gladue* analysis informs CSC decisions at all levels where the retained liberty and security interests of Indigenous offenders are involved.

### ***Ewert v. Canada***

On September 18, 2015, in *Ewert v. Canada*,<sup>29</sup> the Federal Court released a far-reaching decision stating that the psychological risk-assessment scales used by CSC are unreliable for use with Indigenous people as they fail to

respond to their unique needs, lack scientific evidence and are susceptible to cultural bias. CSC regularly uses these scales to assess risk of violence as well as psychopathic personality disorder among both Aboriginal and non-Aboriginal offenders. The scores of these tests and case management analysis of the offender's overall risk rating are then used to make significant liberty decisions (e.g. security rating, access to temporary absences, penitentiary placement).<sup>30</sup> In his ruling, Justice Phelan stated that these scales "... are a contributing factor in decisions that have had an adverse impact on his (Mr. Ewert's) incarceration." The decision was very critical of CSC:

The issue has been a long-standing one; it has not been addressed, and the Defendant's (CSC) evidence in this case does nothing to confirm that it has taken the required reasonable steps. This is not an issue which CSC missed inadvertently. It has been a live issue since 2000, has been on the CSC's "radar screen," and the subject of past court decisions where the Court contemplated that some similar type of confirmatory research was being conducted. It is time for the matter to be resolved.

Justice Phelan further stated that he intended to issue a final order prohibiting CSC from using the assessment scales for Mr. Ewert, and that CSC conduct research to confirm their reliability with respect to adult Aboriginal offenders.

As the *Ewert* case attests, these are not new issues for CSC. The implications of this ruling are significant for federal corrections.<sup>31</sup> Following the decision, the Office requested

<sup>29</sup> 2015 FC 1093.

<sup>30</sup> The risk-assessment tools are psychological tests including the following: the Hare Psychopathy Checklist Revised, the Violence Risk Appraisal Guide, the Sex Offender Risk Appraisal Guide, the Static 99, and the Violence Risk Scale – Sex Offender.

<sup>31</sup> A Case Management Bulletin was issued following the *Ewert* decision directing case management staff to avoid relying on the diagnostic labels and raw scores from psychological risk assessments. Further, Aboriginal social history should not be used to elevate risk.

information from CSC with respect to how it intends to respond to the Interim Order issued by the Federal Court. In response, the Service stated that “direction has been sent within CSC not to use the specific assessment tools identified in the Interim Order in respect of Mr. Ewert.” While this direction complies with the Interim Order affecting Mr. Ewert, it appears that the Service has adopted a “wait and see” approach; in other words, waiting until the Final Order and appeals process are completed prior to taking the steps necessary to address an issue it has known for years to be problematic. Given Justice Phelan’s ruling in *Ewert v. Canada*, the recommendations coming out of the Truth and Reconciliation Commission and the Government of Canada’s recent commitments to Indigenous peoples, the time seems right to build a culturally-informed risk assessment tool, from the ground up, founded on *Gladue* principles and designated for use with male Indigenous offenders.

**17. I recommend that the Service develop new culturally appropriate and gender specific assessment tools, founded on Gladue principles, to be used with male and female Indigenous offenders.**

## The Role of Indigenous Elders in Corrections

The Elder Services Program at CSC provides important spiritual and cultural teachings to First Nations, Métis and Inuit offenders. The program supports the delivery of ceremonial services, participation in the delivery of Aboriginal correctional programs and establishing and maintaining partnerships to help offenders reintegrate in the community.

As per Commissioner’s Directive (CD) 726: *Correctional Programs*, Aboriginal programs should normally be delivered by Aboriginal Correctional Program Officers with the involvement of Elders. While the CD does not specify the level of Elder involvement, in terms of Aboriginal women offender correctional programs, the established rate of Elder participation is 100%.

On March 8, 2016, a memo was sent to CSC Regional Administrators of Assessment and Intervention regarding the involvement of Elders in Correctional Programs. The memo notes that, “there have been significant operational challenges fulfilling this requirement.” It is not surprising that the Service is having operational challenges fulfilling this commitment when according to its 2016-17 *Report on Plans and Priorities*, there are only four (4) funded full time employees to provide administrative and logistical support for Elder Services across the CSC.<sup>32</sup>

Given these challenges, the Women Offender Sector “is currently piloting a minimum of 80 percent Elder involvement per module for the moderate and high intensity programs, as well as the self-management program. Full time Elder involvement is expected to continue for the Aboriginal women’s engagement program.” Moreover, the memo states that should an institution not have sufficient Elders available to meet the 80% threshold, a decision will be made by National Headquarters as to whether the program will proceed. These trends are disturbing. The value and significance of the involvement of the Elder cannot and should not be underestimated. They are an essential component to the rehabilitation and well-being of many Indigenous offenders. Their involvement should be increased, not reduced.

<sup>32</sup> CSC has approximately 110 Elders on contract representing an annual investment of \$8.5M for Elder Services.

This mirrors other trends that saw the number of federal hearings involving an Aboriginal Cultural Advisor decrease to 367 in 2014-15, which was the lowest number in the last ten years. As well, in 2014-15, just over one-third (37.8%) of all federal hearings for Aboriginal offenders were held with an Aboriginal Cultural Advisor.<sup>33</sup> To meet the goals set out by the Truth and Reconciliation Commission, increased involvement of Aboriginal Elders and Spiritual and Cultural Advisors in federal corrections is essential.

**18. I recommend that CSC's National Aboriginal Advisory Council (NAAC) review gaps and barriers to increased participation of Elders in federal corrections and publicly release its recommendations by the end of the fiscal year.**

<sup>33</sup> Public Safety Canada, *Corrections and Conditional Release Statistical Overview 2015*.

# SAFE AND TIMELY COMMUNITY REINTEGRATION

# 5



## Life Areas

- Substance Use
- Work/School/Finance (\$)
- Family Relationships
- Leisure
- Health/Well-being
- Community building
- Institutional adjustment/Parole

## Access to Programs

With the national implementation of the Integrated Correctional Program Model (ICPM),<sup>34</sup> federal offenders serving a sentence of four years or less are getting earlier access to correctional programs. There are more program participants, more enrollments and more successful completions for this select group of offenders. These offenders are also completing their correctional programming in less time.

Despite improvements in the timely delivery of correctional programs, the Auditor General of Canada recently found that offenders who completed the new correctional programs are not recommended for release on parole any earlier than they had been in the past.<sup>35</sup> The AG's audit is significant as it contains independent findings that evaluate the new program model against key outcome measures. Four related findings from the audit are instructive in that regard:

1. Those who completed the new correctional programs were released at about the same point in their sentence, on average, as offenders who completed the traditional suite of programs at later points in their sentence.
2. CSC officials made fewer recommendations for early release to the Parole Board of Canada (Parole Board) in the 2013–14 fiscal year than in the 2011–12 fiscal year.
3. Offenders had increasingly waived or postponed their full parole hearings before the Parole Board.<sup>36</sup> In the 2013 – 14 fiscal year, 65% did so – an increase of 9 percentage points since the 2011–12 fiscal year.
4. In the 2013–14 fiscal year, only a small portion of offenders (20%) had their cases prepared for a parole hearing by the time they were first eligible.

	Number of Offenders Enrolled	Percentage of Offenders with Successful Completions
Prevention	736	78.13%
Substance Abuse	1,066	86.59%
Family Violence	198	90.40%
Sex Offender	386	89.12%
ICPM	8,323	85.08%
<b>Total Programs</b>	<b>10,709</b>	<b>85.0%</b>

<sup>34</sup> The ICPM was first introduced as a pilot in the Pacific Region in 2010. It has since been fully implemented in all but the Prairie Region. ICPM is a multi-variate program model that targets family violence, in addition to general crime, violence, substance abuse and sexual offending.

<sup>35</sup> Auditor General of Canada, *Preparing Male Offenders for Release* – Correctional Service Canada (Spring 2015).

<sup>36</sup> Under the Corrections and Conditional Release Act, offenders have the right to a hearing before the Parole Board at the date they are eligible for full parole. Offenders may choose to waive or postpone hearings for their own reasons. However, delaying a hearing may also be due to the inability of CSC to complete an offender's casework in time.

A year after the release of the AG's report, these findings still hold. Despite earlier and timelier access to correctional programs, most offenders still do not complete their programs before they are first eligible for release. Those who complete their correctional programs by their parole eligibility dates were still not recommended for release any earlier than they had been in the past. In other words, while timeliness in access to and delivery of correctional programs has improved with the introduction of the ICPM, it has not led to any significant gains in offenders being granted earlier discretionary release.

In fact, the majority of offenders today are first released from custody at their statutory release date. In 2014-15, 70.8% of all releases from federal institutions were at statutory release. 84.0% of releases for Indigenous offenders were at statutory release compared to 66.0% of releases for Non-Aboriginal offenders. Over the past ten years, the percentage of releases at statutory release increased from 66.6% to 70.8%. Over the same period, releases on day parole decreased from 30.1% to 26.8% and the percentage of releases on full parole decreased from 3.3% to 2.5%.<sup>37</sup> Also of concern, most of these offenders entered the community directly from either medium or maximum security penitentiaries, limiting their ability to benefit from gradual and supervised release that supports safe reintegration.

In 2014/15, the Parole Board of Canada registered 4,368 waivers and 2,628 postponements of federal parole reviews, as well as 904 withdrawals of applications for federal release reviews. The number of waivers since 2010-11 increased from 3,369 which represents a 29.6% increase. There are three major reasons contributing to the high number of parole hearings that continue to be waived, cancelled, postponed or withdrawn:

1. The offender does not feel that s/he has the support of his Parole Officer and/or Case Management Team.
2. The offender has not completed his/her required correctional programs.
3. Cases are not prepared or brought forward by CSC in a timely manner to the Parole Board.

**19. I recommend that the Integrated Correctional Program Model (ICPM) be immediately and independently evaluated against key performance outcome measures including: day and full parole grant rates; number of and reasons for Parole Board hearings that are waived, cancelled, postponed or withdrawn; reasons why release delayed until statutory release; percentage of inmates held until statutory release in minimum security.**

## Update on Vocational and Educational Programs

Upgrading educational, employability and vocational skills in prison significantly enhances the prospects of an offender returning and remaining crime-free in the community. There are demonstrable needs for these programs in federal corrections. Approximately 75% of offenders admitted to federal custody on their first sentence between April 2008 and March 2013 reported that they did not have a high school diploma.<sup>38</sup> Approximately 60% of federal offenders have employment needs identified at intake.<sup>39</sup>

Given these needs, it is difficult to reconcile that planned spending on education

<sup>37</sup> Public Safety Canada, *2015 Corrections and Conditional Release Statistical Overview* (February 2016) accessible at: <http://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/ccrso-2015/index-en.aspx>

<sup>38</sup> CSC, *Evaluation Report: Offender Education Programs and Services* (February 2015). By contrast, according to Statistics Canada, approximately 80% of the Canadian population (15 or older) graduated from high school in 2010.

<sup>39</sup> CSC, *Outcomes for Offender Employment Programs: Assessment of CORCAN Participation* (January 2014).

<b>Number of Inmates Employed by CORCAN Industries and Institutions</b>						
		<b>2011-2012</b>	<b>2012-2013</b>	<b>2013-2014</b>	<b>2014-2015</b>	<b>2015-2016</b>
<b>CORCAN Industries</b>	<b>Number of Offenders</b>	823	847	934	1,102	1,124
<b>Institutional Employment</b>	<b>Number of Offenders</b>	4,438	4,137	4,102	4,734	5,371

Source: CSC, Data Warehouse as of April 2016.

programming declined by approximately 10% from \$24.343M in 2014-15 to \$21.86M in 2015-16 and is set to remain at the lower expenditure for the next three years.<sup>40</sup> Some CORCAN shops and prison industries were closed through the reporting period as the CSC “streamlined” operations. With the removal of Corcan incentive pay, participation numbers have declined – few shops now actually

operate to full capacity. Even fewer allow for apprenticeship hours in prison industries to be counted against a certified Red Seal trade. Limited access to vocationally-oriented and meaningful prison employment continues to be a common complaint of offenders.

<b>CORCAN Industries</b>	
	<b>% of Total Inmate Population Employed</b>
1. Textiles	2.3%
2. Construction	1.2%
3. Metal Worker	0.8%
4. Assembler	0.8%
5. Upholsterer	0.5%
<b>Top 5 Jobs</b>	<b>5.5%</b>

<b>Institutional Employment</b>	
	<b>% of Total Inmate Population Employed</b>
1. Cleaner	13.1%
2. Food Prep Worker	4.2%
3. Groundskeeper	3.1%
4. General Labourer	1.8%
5. Administrative / Other	1.7%
<b>Top 5 Jobs</b>	<b>23.9%</b>

Source: CSC, Data Warehouse as of April 2016.

<sup>40</sup> CSC, *Report on Plans and Priorities 2015-16 and 2016-17*.

Inmate work or upgrading education should be seen as more than just something to occupy an inmate's time while incarcerated. The problem is that there are too many offenders who have not been assigned or have been waitlisted to educational or vocational programs. When offenders are meaningfully and productively engaged through work, education or programs, they are much more likely to achieve and succeed once released, resulting in enhanced public safety.

**20. I recommend that CSC develop a three year action plan to meet demand for meaningful work, increase vocational training skills and participation in apprenticeship programs.**

## Temporary Absences and Work Releases

Safe, timely and successful reintegration relies on access to the community through gradual and structured release programs. Temporary absences (TAs) and Work Releases (WR) provide eligible and approved offenders with the opportunity to leave the institution for short periods of time to obtain work experience, strengthen connections in the community, maintain family contacts or pursue rehabilitative opportunities not available in institutions (e.g. cultural and spiritual ceremonies).<sup>41</sup>

Often the first step in community reintegration, these structured releases are important as they allow offenders to demonstrate that their risk can be successfully mitigated in the community.

Research shows that offenders participating in TAs are significantly more likely to receive discretionary release such as day parole. Successful, cumulative participation in TA or WRs is also related to significantly lower levels of unemployment and less returns to custody for any reason.<sup>42</sup> The majority of temporary absences are, in fact, successfully completed. For the past 10 years, the average successful completion rates for escorted and unescorted temporary absences were 99% and 95% for work releases. Despite successful completion rates, the number of offenders granted escorted temporary absences and work releases declined in 2014-15.

- The number of offenders receiving escorted temporary absences decreased by 7.7%, from 2,734 in 2013-14 to 2,524 in 2014-15.
- The number of offenders receiving unescorted temporary absences decreased by 9.6%, from 447 in 2013-14 to 404 in 2014-15.
- The number of offenders receiving Warden approved work releases<sup>43</sup> decreased by 28.6%, from 385 in 2013-14 to just 275 in 2014-15.<sup>44</sup>

<sup>41</sup> Temporary Absences can be either escorted (ETA) or unescorted (UTA). All offenders are eligible for medical ETAs at any time in their sentence. Non-medical ETA and UTA eligibility is dependent on sentence length and type and may be granted either under the authority of the Institutional Head or by the Parole Board of Canada. Offenders with longer sentences and moderate risk profiles are more likely to participate in Temporary Absences and Work Releases. See, Correctional Service of Canada, *Who Gets Temporary Absences and Work Releases?: A Profile* (Research Report, R-351), February 2015.

<sup>42</sup> CSC, *The Impact of Temporary Absences and Work Releases on Community Outcomes* (Research Report, R-350), February 2015.

<sup>43</sup> A work release is a structured program of release of specified duration for work or community service outside the penitentiary, under the supervision of a staff member or other authorized person or organization.

<sup>44</sup> Public Safety Canada, *2015 Corrections and Conditional Release Statistical Overview* accessible at: <http://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/ccrso-2015/index-en.aspx>

## Case Study

### Escorted Temporary Absences for Compassionate Reasons

*“Whenever circumstances allow, the prisoner should be authorized to go, either under escort or alone, to the bedside of a near relative or significant other who is critically ill, or to attend the funeral of a near relative or significant other.”\**

Through the reporting period, contrary to policy, the Office received and investigated complaints where cost and budgetary considerations appeared to play a decisive role in denying an inmate the opportunity to visit a terminally ill family member or attend the funeral of a family member in the community.

The Office had earlier advised the Service that proposed changes to the policy governing Temporary Absences were too restrictive and the wording too ambiguous. The Office cautioned that the revisions seemingly allowed decision makers to deny ETA requests for compassionate reasons on the basis of costs rather than compassionate considerations.

In response to the Office’s interventions, in February 2016 the Service issued a *Policy Bulletin* which clarifies and reminds staff that ETAs for compassionate reasons can “only be denied if information exists that, in the opinion of the decision-maker, the risk is unassumable for the protection of society, staff or the inmate; and are not to be denied on the basis of cost.”

\* Rule 70, United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules), revised and updated 2015.

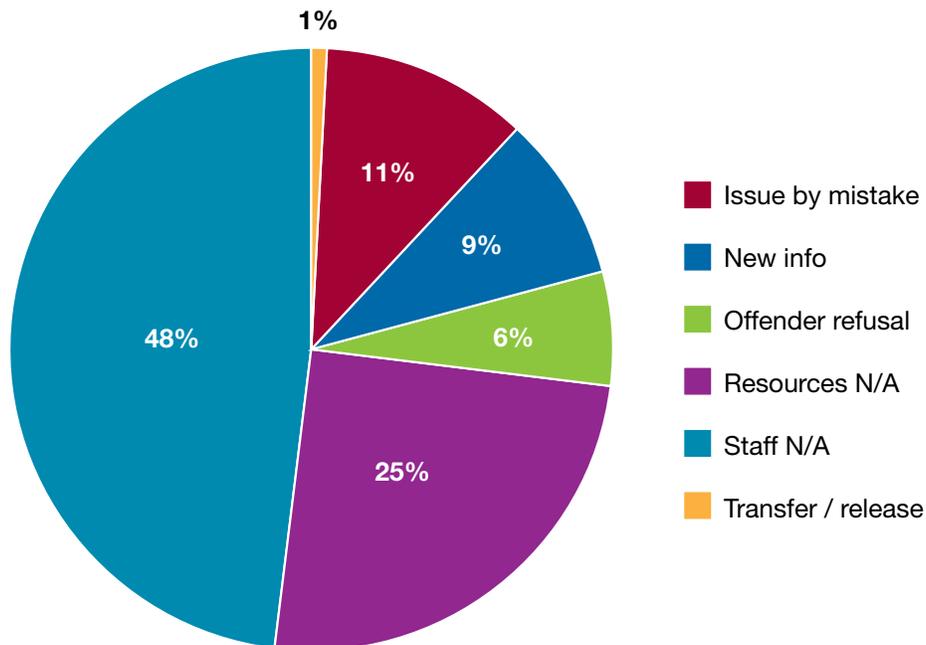
In light of these negative trends, it is necessary to determine whether temporary absences and work release programs are being used and administered appropriately. Through the reporting year, the Office intervened in a number of individual cases and undertook a systemic review of the use of TAs in women’s corrections.

## Review of Temporary Absences at Federal Regional Women’s Facilities

For federally sentenced women, there were a total of 5,474 non-medical ETAs facilitated over the past year. Just under one quarter of these ETAs were cancelled. Consistent with complaints received from the regional women’s facilities and confirmed by site visits and file reviews, there were significant operational challenges in facilitating ETAs, with a cancellation rate exceeding 50% at one institution.

FY 2015-2016			
	Non-medical ETAs	# cancelled	% cancelled
NOVA Institution for Women	130	68	52%
Joliette	621	225	36%
Grand Valley Institution	1,603	211	13%
Edmonton Institution for Women	1,398	535	38%
Okimaw Ohci Healing Lodge	1,254	150	12%
Fraser Valley Institution	468	29	6%
<b>TOTAL</b>	<b>5,474</b>	<b>1,218</b>	<b>22%</b>

As depicted below, almost 75% of all ETAs were cancelled due to staff or resources not being available. In some institutions, over 50% of cancelled ETAs were attributed to staff not being available.



The following table shows the number of completed UTAs:

Facility	Total
Edmonton Institution for Women	209
Fraser Valley Institution	6
Grand Valley Institution for Women	58
Joliette Institution	32
Nova Institution for Women	9
Okimaw Ohci Healing Lodge	60
<b>Total</b>	<b>693</b>

There were 846 UTA permits issued in 2015-2016:

- 127 were cancelled, 24 times the offender did not participate and 624 were completed on time.
- Only one offender breached her conditions and another 15 permits were extended (10) or the offender was late returning (5).
- In 53 cases the institution had not filled in the completion type for the permit.
- Okimaw Ochi Healing Lodge has a population of approximately 40 women but facilitated more UTAs than the majority of the regional facilities.

**21. I recommend that, in the coming year, CSC review temporary absence criteria, resources and staff support and develop an action plan to facilitate improved access to the community through increased use of Temporary Absences and Work Releases. Performance measures and indicators supporting transition from the institution to the community should become a standard feature of subsequent CSC Reports on Plans and Priorities.**

## Contact with the Outside World

A recent CSC evaluation of offender education programs and services found that the quality and quantity of inmate library resources could be enhanced by providing more up-to-date and relevant material that would fulfill three aims: i. increase literacy level; ii. provide opportunities for obtaining employment and, iii. prepare offenders for their release to the community.<sup>45</sup> Along with more resources, offenders reported that the prison library should be made more accessible. Though the evaluation of institutional libraries was limited to how they support current education programs and services, the suggestion that inmate libraries should be more accessible or offer more relevant and practical information, particularly current events and daily newspapers, is not new.

Commissioner's Directive 720 (*Education Programs and Services for Offenders*) directs that the institutional library has available historical and current copies of legal, regulatory and official reference materials. These

<sup>45</sup> Correctional Service of Canada, *Evaluation Report: Offender Education Programs and Services* (February 2015).

## Case Study

### Access to Learning

During a recent visit at a maximum security institution, the Investigator noted that there was no library. Books were brought to the units on mobile library carts. Teachers exchanged books for cell studies. Acquisitions could not be determined as books were stored in various locations. General purpose computers were available to the population, but these are not conducive for educational purposes. The Warden stated that the librarian resource had been eliminated as part of recent budget cuts. At the same institution, teachers were restricted to using utility rooms in the units to hold classes as the classroom had been shuttered for over ten years. There was a nine month wait list for cell studies.

materials, which should be in either printed copy or accessed via the library CD-ROM, include but are not limited to: *Charter of Rights and Freedoms*, *Corrections and Conditional Release Act* (and Regulations), *Criminal Code of Canada*, *Canadian Human Rights Act*, Commissioner's Directives and Institutional Standing Orders and Parole Board of Canada Policy Manual. The CD further directs that the institutional library "provides services and computerized resources which are comparable to those in the community libraries." By any measure, there is a growing gap between this policy and the reality in most federal penitentiaries.

Properly equipped and resourced, the holdings of a prison library can help expose inmates to new ideas, information, perspectives and possibilities, and offer the promise of a better and more enriched life. But despite national guidelines,<sup>46</sup> there is considerable regional variation in how inmate libraries in federal penitentiaries are operated and funded across Canada. In federal institutions, the availability of library services and librarians is determined

by local staffing and resourcing levels. Most institutional libraries are staffed on a part-time or ad-hoc basis. Where library resources are limited, Social Program Officers may supervise inmate library workers. Funding to purchase new acquisitions is chronically low, inconsistent and inadequate. Library access is subject to prevailing operational and security requirements and is particularly restricted in maximum security institutions. Often, inmates are only able to access library reading materials a select number of days per week and often only for a few hours per day. Finally, most prison libraries lack a computerized circulation system making it difficult to effectively track and locate books.

Even when there is access to books and libraries, there are significant and known gaps in reading and learning materials for specific incarcerated groups, including Aboriginal, culturally diverse, special needs and minority language offenders. Given that close to 60% of offenders at admission to federal custody have an identified education need (less than Grade 12) access to functional literacy and educational programming are persistent

<sup>46</sup> CSC, *National Guide for Institutional Libraries*, 2012.

challenges. An unknown, but believed to be significant proportion of the offender population lives with learning, intellectual or cognitive impairments, including Fetal Alcohol Spectrum Disorder and Attention Deficit Hyperactive Disorder. There has been some effort to acquire more audio books and self-help materials, as well other undertakings between community groups and prisons to enhance access, but these are largely dependent on local initiative and demand, lacking national direction, coordination and funding.

Digital literacy is an increasingly important requirement of an online world, and increasingly essential skill for obtaining employment in the community. In addition to books and other printed materials, prison libraries often serve as an inmate's only access to computers and word processing capabilities. There are a limited number of stand-alone computers made available to inmates in prison libraries; however, for those that still function most can safely be considered obsolete or unreliable, operating on outdated software.

Based on information supplied by the CSC, my Office estimates that the ratio of access to inmate computers in libraries is one per 63 inmates. A few institutions do not have a single computer in the prison library, while four others have only one. The Prairies Region is particularly underserved and information deprived: there are 36 computers accessible to inmates servicing a total population of over 4,100 (1 computer for every 114 inmates). The variations and inconsistencies in prison library staffing, budgets, holdings/acquisitions, access to and provision of services to inmates across regions and security levels is inexplicable and unacceptable.

Though the CSC has implemented an inmate Local Area Network (LAN) in several institutions, Ontario is the only region where inmate computers are fully networked. Computers accessible to inmates provide

an important source of access to basic information, including their legal documents, assessments conducted by parole officers, psychologists and programs officers and CSC policies. Nearly all staff interviewed as part of the evaluation of education programs and services agreed that increasing the use of technology, including computer-assisted learning, would improve the delivery of offender education and literacy programs.

Since 2002, incoming inmates have been prohibited from bringing a personal computer into a federal penitentiary. It is increasingly challenging and expensive to repair the ever-diminishing number of personal computers still in use in federal facilities. It is difficult to see how such information-deprived environments can be considered purposeful or rehabilitative. There is simply no remaining rationale or logic behind CSC's position on these matters. There is still not even limited and supervised access to the Internet or email for federal inmates, even as many other jurisdictions, including the Federal Bureau of Prisons in the United States, allow restricted forms of electronic communication, as well as use of tablets to promote contact with the outside world. These initiatives help inmates maintain familial and community connections while incarcerated, thereby serving larger reintegration aims.

Access to legal literature, despite policy guidelines, in some federal institutions is a serious problem. While law and policy is made available to inmates in CD format for use in stand-alone common area computers, the pre-loaded content is not always up to date, computers are not all fully functional and there are not enough made available for inmate use. Access to photocopying and fax machines is subject to a request and approval process and is paid for by users. There is little privacy or confidentiality even for privileged communication. Some inmates have

complained that they do not have access to the Commissioner's Directives. Paper copies of the *CCRA/CCRR* are not routinely provided, nor are they necessarily up-to-date with recent amendments, though CSC claims that inmates can always request a copy from the library.

CSC would do well to further support inmate book clubs, expand opportunities for educational upgrading (particularly supporting inmates to acquire secondary school equivalency), partner with local libraries to allow inmates to check out books and promote parental reading programs that allow incarcerated mothers and fathers to read aloud and record books for their children. Promoting inmate literacy groups and inmate tutors are innovative ways to support literacy behind bars, initiatives that can only help self-improvement and feeling connected to the outside world.

**22. I recommend that:**

- ***CSC update and renew inmate libraries so that they are compliant with policy and comparable to the services, materials and technologies available in community libraries.***
- ***CSC ensure that copies of law and policy are current and updated as necessary, and made available in both print and electronic formats.***
- ***CSC explore safe, practical and innovative ways to expand access to the widest variety of electronic information, technology and communication possible in a correctional setting.***

**23. I recommend that CSC implement a comprehensive pilot project providing for monitored email, tablets and laptops in the coming fiscal year to assess security issues, privacy issues and costs, with the goal of full implementation within three years.**

# 6

## FEDERALLY SENTENCED WOMEN



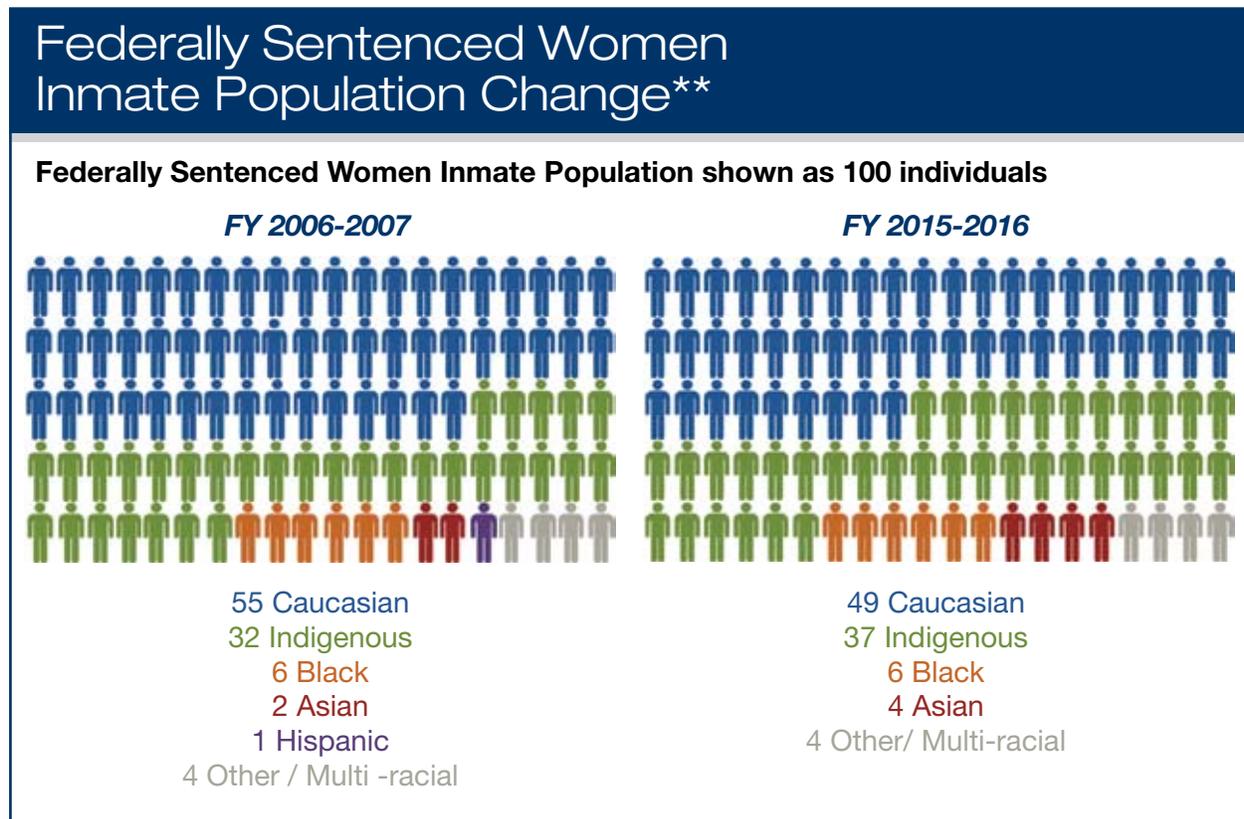
Over the course of the reporting period, the regional women’s facilities were confronted with several operational challenges that had significant impacts on staff and inmates alike. Two women died in federal custody in 2015-16 both at the same institution. Of particular concern, one death was the result of suicide. The impact of these deaths on staff and offenders was substantial, and the Office spent considerable time onsite to address complaints and institution-wide concerns in the months following these deaths.

While suicides in women’s facilities are relatively rare, the number of incarcerated women who present with challenging and complex mental health needs, including increasingly serious, chronic and near lethal forms of self-injurious behaviour, continues to rise. As documented in the health care chapter, the regional women’s facilities, particularly the Secure Units, are

ill-equipped to provide an appropriate therapeutic environment for women presenting with significant mental health illness.

During 2015-2016, three out of five of the women’s institutions experienced vacancies and turnover at the management level. The turnover in staff had considerable impacts on institutional operations. The Office received numerous offender complaints about delays in decision-making often as a result of instability or acting rotations for the Warden position at their institution. Case management was also impacted by these vacancies as incumbents from other areas of the institution filled upper management positions. The Office recognizes that consistent, stable leadership is essential to fair and timely decision-making. Staff investigators will continue to monitor this situation in the coming year.

## Key Trends and Performance Indicators



The number of women incarcerated in federal penitentiaries has steadily increased over the last decade. Since 2006-07, the number of women in federal custody increased by 35% (from 502 to 680 women). Over the course of the same period, the number of Indigenous women increased by 57%. Today, Indigenous women account for 36% of the federally sentenced women inmate population.

Other trends in the women inmate population and profile include:

- The ethnic diversity within the inmate population is increasing (including growth in the number of Black and Asian women).
- The in custody women population is aging, though not as quickly or as appreciably as the male inmate population. Today, 15% of the incarcerated women population is over the age of 50.
- Gaps in correctional outcomes for Indigenous women continue to pose barriers to rehabilitation and reintegration. Indigenous women are significantly over-represented at maximum security (42%) and segregation placements (50%) but under-represented at minimum security (26%).

- Compared to their male counterparts, women present higher rates of mental health need (51% compared to 26%).<sup>47</sup>

Though rates of self-harm, administrative segregation and the use of psychotropic medications continue to be elevated in women's corrections, there were some notable declines in 2015-16:

- Use of administrative segregation in the women's facilities decreased by almost 20%.
- 46% of the women inmate population had an active psychotropic medication prescription (down from 62.6% in August 2013).<sup>48</sup>
- There were 219 recorded self-harming incidents (a decrease of more than 50% from FY 2013-2014),<sup>49</sup> of which Indigenous women accounted for 26% of the total.

The Office is cautiously optimistic that these gains are indicative of better long-term outcomes for federally sentenced women.

<sup>47</sup> CSC, *Mental Health Branch Performance Measurement Report – Year End Results 2014-15*.

<sup>48</sup> CSC, *Prevalence of Psychotropic Medication Prescription among Federal Offenders*. Research Report, R-373 (July 2015).

<sup>49</sup> The Office estimates the actual number of self-injurious incidents to be higher than the number recorded by CSC as women inmates self-report concealing self-harm from staff to avoid admission to the segregation range under clinical observation per policy requirements.

## Special Focus

### Review of Minimum Security Units (MSU)

Institution	Current Count	Capacity	Occupancy Rate
Edmonton Institution for Women	37	40	92.5%
Fraser Valley	14	20	70.0%
Grand Valley	36	40	90.0%
Nova	11	14	78.6%

Over the past two years, CSC built and opened four new stand-alone minimum security units (MSU) outside the perimeter fence at four of the five regional women's institutions. Total rated capacity for these four units is 114. At the end of March 2016, the facilities were operating close to their capacity. (There is no MSU at Joliette Institution; women classified as minimum security are housed within the multi-level facility). The opening of these units addresses a long-standing concern of this Office, namely that federally sentenced women classified as minimum security should, similar to their male counterparts, be managed in the least restrictive environment possible. The construction of the MSUs provides an equal opportunity for federally sentenced women to access the community in a safe and timely manner.

Like the multi-level facilities, the new minimum units contain areas specifically designed to support the mother-child program, including adjoining, but separate rooms for the mother and child. Other upgraded design features have been welcomed by staff and women participants alike. The opening of the units outside the perimeter fence represents an overall increase in minimum security bed space available across the site, which has helped ease the operational capacity for the mother-child program. It has had the intended effect of increasing participation in the program over the past year. This situation represents a vast improvement from just a few years ago when the Office reported participation levels so low that, on any given day, there was not a single

participant in the mother-child program.

The Office is encouraged by the improved access and number of participants in the mother-child program facilitated by the minimum units. However, there are still unnecessary delays in decision-making. In one case, the delays were due to operational constraints linked to the Child Welfare Agency (CWA) that was charged with assessing the women's parental suitability in order to participate in the mother-child program. In this case, the CWA asked the woman to prioritize which assessment should be completed first – her son vs. unborn child as they were experiencing operational constraints. The woman waited over seven months for the assessment to be completed. This case in particular highlights the adverse effects on mothers and their children who are separated unnecessarily while waiting for the decision-making process to be completed.

**24. I recommend that CSC focus efforts on developing protocols and arrangements with provincial child welfare/protection agencies to ensure referrals to and assessments by these external bodies are completed in a timely manner.**

Throughout the reporting period the Office received numerous offender complaints regarding the daily routine of the MSUs. The women report ongoing tedium in routine with few opportunities to leave the unit. Staff working in these units have also shared concerns with the Office, including difficulty

implementing temporary absences due to delays in decision-making, especially with the short period of time staff have to implement them with the number of women who transition to the MSU only to be quickly released on conditional or statutory release.

The Service reports a vast number of services and vocational / volunteer opportunities available to women in the MSU, including several located within the community (food banks, universities, libraries, and thrift shops). However, many of these services, such as Alcohol Anonymous, designated religious places and other vocational programs, are located in the main fenced complex inside the multi-level facility. That said, there are some full-time CORCAN jobs and small shop industries that have been located to the MSUs, and participation levels have increased considerably over the last year. In 2015-2016, CORCAN industries in the MSUs offered limited vocational skills training and employment to women, such as sewing blankets for the Department of National Defence or assembling poppies for the Salvation Army.

Although these opportunities are welcomed, the women (as well as some staff) expressed expectations that vocational opportunities would be delivered in the community rather than in prison. The on-site work location had little effect on alleviating the sense of monotonous routine, nor did it address the larger gap in vocational skills training in women's corrections.

Efforts to alleviate idleness have resulted in the development of a few "make-busy" activities that do not meaningfully contribute to offender rehabilitation or reintegration. For example, two sites implemented a "walking program" where women may walk or run a path outside of the institutional perimeter. However, because of a

lack of volunteers and approvals, the program exists only in name. Women are limited to walking the "yellow lines" of the parking lot or the length of the driveway of the institution. To cope, some minimum security women took the extraordinary step of opting to re-enter general population in order gain access to vocational training, social programs and work opportunities (limited to the institutions where this option is available).

To address concerns raised by inmates and staff alike, the Office initiated a review of the minimum units during visits and interviews conducted this past year at the regional facilities. The review noted a number of systemic concern in the operations of the minimum units:

1. Transfers between the MSU and Multi-level Facility
2. Programs and Security Classification
3. Access to Case Management Team
4. Temporary Absences and Work Releases

### **Transfers between MSU and Multi-level Facility**

Two of the four MSUs require all women classified as minimum security to be placed in the standalone minimum unit. In the other two institutions, women choose whether to reside inside the multi-level facility or within the MSU.<sup>50</sup> In the two institutions where placement in the MSU is voluntary, the Office noted a few cases where women who had chosen to reside in the minimum unit were moved back to the multi-level facility to conduct an internal investigation following an incident. The transfer was not documented as a segregation placement, nor did it result in a higher security re-classification of the affected women, which would have

<sup>50</sup> These institutions have more minimum security women offenders than they do beds and therefore minimum security women also reside in the multi-level facility.

required a more formal and rigorous decision and review process. In effect, the movements were operationally convenient. Regardless of where they reside, policy and legislation is clear that minimum security women should have the same level of access to programs, services and the community. A transfer to the main multi-level facility has immediate consequences for work, access to temporary absences and programming.

**25. I recommend that CSC significantly enhance access to the community for women residing in the Minimum Security Units through increased use of temporary absences, work releases, employment and vocational skills training programs.**

## Programs and Security Classification

The operating budget for the MSUs lack funding for a dedicated programs officer. As a result, women residing in the MSUs who still require core correctional programming have to access the program within the multi-level facilities. Following an investigation, the Office found that women with unfulfilled core correctional program requirements are obligated to complete their programming prior to transfer to the MSU.<sup>51</sup> In the first half of 2015-16 women offenders at the MSUs were unable to access the broad spectrum of programs, services and activities that were offered at the multi-level facility. By the end of the reporting period, some institutions began to allow women access to services, programs, and social events within the main complex, however, completion of correctional programming prior to transfer to the MSU remains common practice.

The obligation to complete programs prior to MSU placement has significant impacts on security classification, movement and assembly. At one institutional visit, one-third of the women residing at the MSU reported that their case management team did not pursue security reclassification from medium to minimum security – despite satisfying all other requirements – until correctional program requirements were met. A review of the records confirmed this was the case in almost half (six of thirteen) of the cases.<sup>52</sup>

At the two institutions where the option to reside in the MSU or in the multi-level facility exists, the women had to apply to reside in the MSU after correctional programming was completed. These women reported that the impact of this requirement created a pseudo-fourth security level, referred to as “pre-minimum.” Being required to reside inside the main facility to complete programs these women were seen as different than others residing at the MSU, or even the rest of the population. Provisions contained in the *CCRA* and *CCRR* require that offenders are to be assigned to the least restrictive security classification based on an assessment of factors related to public safety, escape risk, and institutional adjustment. The level of motivation / engagement to participate in the correctional plan is only one of the assessment criteria contained within the institutional adjustment section of the security reclassification scale. Those women caught between security classification levels because core correctional programming requirements have not been met is inconsistent with the necessary and proportionate principle, and does not comply with CD 705-7 *Security Classification and Penitentiary Placement*.

<sup>51</sup> One MSU offers the “Women Offender Self Management Program”; however this program is considered a maintenance program, and is meant to reinforce the skills learned in other correctional programs.

<sup>52</sup> Three of the twelve women were newly admitted women to the federal system.

## Access to Case Management Team

Over the course of the review it was reported that women in two of the four MSUs had difficulty accessing members of their case management team. During site visits, the Office received several complaints that women had not met with their case management team since being placed at the MSU. In two of the four MSUs, case management staff are located at the multi-level facilities and therefore women at the MSUs cannot drop in to meet with their case management team like those who reside within the main multi-level facility. Moreover, when a women moves from the main complex to the MSU there is often a change in their case management team. The women self-report being told by their new case management officers that they have to “prove themselves” or wait until their parole officer “gets to know them better” prior to any decisions being made to their reintegration plan. A best practice at one of the MSUs is that parole officers, elders, and social program officers make a point of visiting the unit regularly.

**26. I recommend that access to case management team members be increased for women residing in the Minimum Security Units, including mandatory frequency of contact and consultation standards and that transfers to the main multi-level facilities should only be used when all other less restricted alternatives have been considered.**

## Temporary Absences and Work Releases

Temporary absences (escorted or unescorted) and work releases allow women incremental access to the community to gain meaningful work experience and become more familiar with services, supports and opportunities available to them upon release. These are an important part of the offender’s reintegration plan, and successful cumulative completions increase the likelihood of a woman being granted conditional release (day or full parole) at the earliest possible point in their sentence.

## Temporary Absences and Work Releases for Minimum Security Offenders Only

Issuing Facility	ETA	UTA	Work Releases
Edmonton Institution for Women	1,944	233	6
Fraser Valley Institution	418	3	2
Grand Valley Inst for Women	1,869	61	16
Joliette Institution*	911	34	4
Nova Institution for Women	78	7	5
Okimaw Ohci Healing Lodge (OOHL)*	1,157	73	13
Regional Psychiatric Centre – Prairies*	50	0	0
<b>Total</b>	<b>7,491</b>	<b>805</b>	<b>46</b>

Source: CSC Data Warehouse

Note: \*There is no MSU at Joliette Institution, the Regional Psychiatric Centre or the Okimaw Ohci Healing Lodge. Minimum security women reside within the multi-level facility.

## Case Study

A woman at one institution applied to live in the MSU, despite being aware of the lack of programming available, in order to participate in the mother-child program with her 18-month old child. In the period following her application and placement in the MSU, she also applied for Private Family Visits and ETAs to see her other children. At the time of the Office's site visit, the woman's application for mother-child program was six months overdue, her Private Family Visit application was two months overdue, and all of her applications to visit her other children on an ETA had been cancelled at the last minute due to staff shortages.

The MSUs were meant to increase opportunities for escorted temporary absences (ETAs), unescorted temporary absences (UTAs) and work releases for minimum security women. Over the reporting period, the Office noted repeated delays attributable to case management decisions surrounding temporary absences or work releases. A file review of women's case management plans at one of the minimum units found several examples of situations where temporary absences or work releases could have been initiated in advance of the women's reclassification to minimum security, but were not.

In one institution, women reported that they had been encouraged to wait until conditional release to gain vocational experience, rather than apply for a work release. By any measure, the number of Warden approved work releases granted is quite low and very concerning for women who are returning to the community. Given the relatively short period of time that many women spend in the MSU prior to being granted some form of conditional release, delays in case management decisions that would allow a woman to gain better knowledge of, and access to resources, services, supports

and employment in the community can significantly impact on successful and timely reintegration.

Another key barrier to women in MSUs being approved for temporary absences or work releases in FY 2015-2016 were delays or cancellations attributable to the unavailability of staff or volunteers to facilitate these activities. Though not unique to the MSUs, the impacts are more acutely felt because the women who reside in these units rely on these activities to support their reintegration plans. The Office urges the CSC to examine how volunteers are utilized in the MSUs in order to maximize potential access to the community.

***27. I recommend that CSC enhance partnerships with community groups and organizations to deliver programming, opportunities and activities for women residing in the Minimum Security Units in the community and that this activity be monitored by an Advisory Committee of stakeholders.***

# CORRECTIONAL INVESTIGATOR'S OUTLOOK FOR 2016-17

In the Prime Minister's mandate letter to the Minister of Justice and Attorney General of Canada, the federal government has committed to "conduct a review of the changes in our criminal justice system and sentencing reforms over the past decade with a mandate to assess the changes, ensure that we are increasing the safety of our communities, getting value for money, addressing gaps and ensuring the current provisions are aligned with the objectives of the criminal justice system."<sup>53</sup> Such a review appears timely and necessary following a period of numerous, rapid and often incoherent changes in criminal and correctional law and practice. Whatever direction this review takes, restraint in the use of imprisonment and proportionality in sentencing would be important and defining touchstones.

The government's stated intentions in the area of criminal justice reform intersect with a number of specific and ongoing priorities of my Office:

1. Overrepresentation of Indigenous Peoples in federal corrections.
2. Imposition of legal limits on the use of segregation/solitary confinement.
3. Implementation of outstanding recommendations from the inquest into the death of Ashley Smith.
4. Signing the *Optional Protocol on the Convention against Torture*.

Looking ahead, the issue of solitary confinement (administrative segregation) is likely to continue to generate significant public, media, legal and stakeholder interest and debate. It is also the focus of ongoing court challenge. One way or another, this issue looks like it is destined to be resolved through legal intervention – via the courts and/or by amendments to the *Corrections and Conditional Release Act*. It is encouraging that the use of segregation decreased significantly in 2015-16 as did the number of inmates in long-term segregation (over 60 days). These sharp reductions can be attributed to targeted policy reforms, corporate priority and stronger alignment of operational practice with administrative segregation law. While acknowledging CSC's effort and responsiveness to this area, in the interest of ensuring these gains are sustained over the long term additional legal limits and safeguards on the use of solitary confinement should be considered. Imposing a ceiling on segregation stays, using alternatives to segregation placements for mentally ill, suicidal and self-injurious inmates and employing robust external review of continued or multiple segregation placements are expected reforms.

The treatment and management of mental illness in corrections requires further intervention and response. CSC has implemented the Refined Model of Mental Health Care, including the establishment

<sup>53</sup> Minister of Justice and Attorney General of Canada Mandate Letter, accessed at: <http://pm.gc.ca/eng/minister-justice-and-attorney-general-canada-mandate-letter>

of intermediate mental health care units in treatment centres and select mainstream institutions. The Office will be looking to ensure that these units are appropriately resourced and professionally staffed to meet rising needs, demands and expectations through improved access, integration and delivery of correctional mental health services.

There is also much more work ahead in fully responding to and implementing outstanding recommendations from the Ashley Smith inquest. I offer my Office's assistance in moving forward with deliberate and meaningful reforms, particularly in the area of alternative service delivery treatment arrangements for significantly mentally ill offenders.

Taking some further steps in realizing the government's intent to sign the *Optional Protocol on the Convention Against Torture (OPCAT)* would send a strong declarative message that Canada welcomes and embraces a model that allows for national and international inspection of all places of detention.

I will be monitoring how the Correctional Services responds to a variety of legislative initiatives, including those dealing with physician assisted dying, the decriminalization of marijuana and the rights of transgendered Canadians. I also will begin to look at the role, structure and governance of CSC's various advisory committees and their role in helping the Service realize its mission statement.

In terms of public reporting, in the coming year the Office will release the findings of our investigation looking at the manner and extent to which the CSC communicates and shares information with families of offenders who have died in federal custody. We will scope out an investigation into how younger offenders (age 18 to 21) are managed in federal custody. A study of the impact of time spent behind bars on physical health (diet, nutrition, exercise) is also in the preliminary planning stages. Finally, the Office intends to report on the quality and rigour of CSC case management practices supporting safe and timely reintegration.

I look forward to working with the government and the Correctional Service in fulfilling these commitments in 2016-17.

# ED MCISAAC 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 2015 recipient of the Ed Mclsaac Human Rights in Corrections Award was John W. Conroy, practicing lawyer and founder of Conroy & Company, Barristers and Solicitors, Abbotsford, British Columbia.



**Left to Right: Mr. Howard Sapers, Mr. John W. Conroy (centre) and Mr. Ed Mclsaac.**

# ANNEX A:

## Summary of Recommendations

1. I recommend that CSC consult with professional colleges, licensing bodies and accreditation agencies to ensure operational policies do not conflict with or undermine the standards, autonomy and ethics of professional health care workers in corrections.
2. I recommend that CSC develop, publicly release and implement an older offender strategy for federal corrections in 2016-17 that addresses the care and custody needs of offenders aged 50 or older. This strategy should include programming, reintegration, public safety and health care cost considerations.
3. I recommend that CSC create a national action plan to address dental waitlist concerns, restore funding for preventative dental health care and improve access to dentistry services in federal penitentiaries.
4. I recommend that CSC enhance harm reduction initiatives including the re-introduction of safe tattooing sites and the implementation of a needle exchange pilot and assess the impacts of these measures on inmate health, institutional substance miss-use and security operations.
5. I recommend that CSC work collaboratively with community groups that have proven expertise in providing treatment services and supports for FASD-affected individuals to address significant gaps in assessment, programming, treatment and services to these offenders in federal corrections.
6. I recommend that CSC's gender dysphoria policy be updated to reflect evolving legal and standards of care protecting the rights of transgender people in Canada. Specifically:
  - upon request and subject to case-by-case consideration of treatment needs, safety and privacy, transgender or intersex inmates should not be presumptively refused placement in an institution of the gender they identify with.
  - the 'real life' experience test should include consideration of time spent living as a transgender person during incarceration.
7. I recommend that CSC develop a new, separate and distinct model from the existing Situation Management Model to address medical emergencies and incidents of self-injurious behaviour in partnership with professional mental health organizations.
8. I recommend that the Minister of Public Safety direct CSC to develop additional community partnerships and negotiate exchange of service agreements in all regions that would allow for alternative placement and treatment arrangements other than incarceration for significantly mentally ill federal offenders. These arrangements and agreements should be in place by the end of the current fiscal year.

9. I recommend that internally allocated specialized complex case funding should not be used as an alternative to seeking placement in an external treatment facility and that the CSC allocate funding for treatment beds commensurate with diagnostically identified needs.
10. I recommend that CSC retain, as a mandatory requirement, that a psychological review/autopsy be conducted by a registered mental health clinician into each and every prison suicide.
11. I recommend that CSC publicly release the third Independent Review Committee report on deaths in custody and the action plan responding to the report's findings and recommendations.
12. I recommend that the Minister of Public Safety work with provincial and territorial counterparts to create an independent national advisory forum drawn from experts, practitioners and stakeholder groups to review trends, share lessons learned and suggest research that will reduce the number and rate of deaths in custody in Canada.
13. I recommend that:
  - The removal, display or threatened use of a chemical and inflammatory agent should be properly and immediately reinstated as a "reportable" use of force in CSC's use of force policy and review framework.
  - CSC should conduct an immediate review of the factors behind the increasing use of inflammatory agents in CSC facilities and assess whether additional review and accountability controls are required to ensure their safe and proper use.
- CSC policy should require shower and wash as soon as possible following the use of or contamination by an organic inflammatory agent, with any delay of more than 20 minutes requiring notification of the Institutional Head.
- After each and every use of an inflammatory or chemical agent, the canister should be weighed and the volume discharged duly recorded. Officers should be held to account for the use(s) and volume of inflammatory agents discharged for each incident. These records should be shared regionally and nationally on a quarterly basis.
14. I recommend that CSC suspends the introduction of the new inmate purchasing system, and proceed with in-depth, meaningful consultations with all stakeholders, including this Office, Inmate Committees and front-line staff.
15. I recommend that the Minister of Public Safety initiate a review of the inmate payment/allowance system in federal corrections.
16. I again recommend that CSC appoint a Deputy Commissioner for Indigenous Corrections.
17. I recommend that the Service develop new culturally appropriate and gender specific assessment tools, founded on *Gladue* principles, to be used with male and female Indigenous offenders.
18. I recommend that CSC's National Aboriginal Advisory Council (NAAC) review gaps and barriers to increased participation of Elders in federal corrections and publicly release its recommendations by the end of the fiscal year.

- 19.** I recommend that the Integrated Correctional Program Model (ICPM) be immediately and independently evaluated against key performance outcome measures including: day and full parole grant rates; number of and reasons for Parole Board hearings that are waived, cancelled, postponed or withdrawn; reasons why release delayed until statutory release; percentage of inmates held until statutory release in minimum security.
- 20.** I recommend that CSC develop a three year action plan to meet demand for meaningful work, increase vocational training skills and participation in apprenticeship programs.
- 21.** I recommend that, in the coming year, CSC review temporary absence criteria, resources and staff support and develop an action plan to facilitate improved access to the community through increased use of Temporary Absences and Work Releases. Performance measures and indicators supporting transition from the institution to the community should become a standard feature of subsequent *CSC Reports on Plans and Priorities*.
- 22.** I recommend that:

  - CSC update and renew inmate libraries so that they are compliant with policy and comparable to the services, materials and technologies available in community libraries.
  - CSC ensure that copies of law and policy are current and updated as necessary, and made available in both print and electronic formats.
  - CSC explore safe, practical and innovative ways to expand access to the widest variety of electronic information, technology and communication possible in a correctional setting.
- 23.** I recommend that CSC implement a comprehensive pilot project providing for monitored email, tablets and laptops in the coming fiscal year to assess security issues, privacy issues and costs, with the goal of full implementation within three years.
- 24.** I recommend that CSC focus efforts on developing protocols and arrangements with provincial child welfare/protection agencies to ensure referrals to and assessments by these external bodies are completed in a timely manner.
- 25.** I recommend that CSC significantly enhance access to the community for women residing in the Minimum Security Units through increased use of temporary absences, work releases, employment and vocational skills training programs.
- 26.** I recommend that access to case management team members be increased for women residing in the Minimum Security Units, including mandatory frequency of contact and consultation standards and that transfers to the main multi-level facilities should only be used when all other less restricted alternatives have been considered.
- 27.** I recommend that CSC enhance partnerships with community groups and organizations to deliver programming, opportunities and activities for women residing in the Minimum Security Units in the community and that this activity be monitored by an Advisory Committee of stakeholders.

# ANNEX B:

## Annual Statistics

**Table A: Complaints By Category**

Internal Response - see Glossary (2), Inquiries and Investigations - see Glossary (3)

Category	I/R(2)	Inv (3)	Total
<b>Administrative Segregation</b>			
Conditions	10	26	36
Placement/Review	66	158	224
<b>Total</b>	<b>76</b>	<b>184</b>	<b>260</b>
<b>Case Preparation</b>			
Conditional Release	26	32	58
Post Suspension	9	10	19
Temporary Absence	2	4	6
Transfer	8	8	16
<b>Total</b>	<b>45</b>	<b>54</b>	<b>99</b>
<b>Cell Effects</b>	<b>184</b>	<b>230</b>	<b>414</b>
<b>Cell Placement</b>	<b>16</b>	<b>27</b>	<b>43</b>
<b>Claim</b>			
Decisions	16	14	30
Processing	14	17	31
<b>Total</b>	<b>30</b>	<b>31</b>	<b>61</b>
<b>Community Programs/Supervision</b>	<b>4</b>	<b>8</b>	<b>12</b>
<b>Conditional Release</b>	<b>5</b>	<b>10</b>	<b>15</b>
<b>Conditions of Confinement</b>			
Behavioural Contract	2	2	4
Food Services	11	7	18
Lockdown	26	39	65
Other	231	343	574
Recreation Time	16	18	34

**Table A: Complaints By Category (cont.)**

Internal Response - see Glossary (2), Inquiries and Investigations - see Glossary (3)

<b>Category</b>	<b>I/R(2)</b>	<b>Inv (3)</b>	<b>Total</b>
Special Units	12	26	38
<b>Total</b>	<b>298</b>	<b>435</b>	<b>733</b>
<b>Conviction/Sentence-Current Offence</b>	<b>4</b>	<b>1</b>	<b>5</b>
<b>Correspondence</b>	<b>71</b>	<b>90</b>	<b>161</b>
<b>Death or Serious Injury</b>	<b>2</b>	<b>22</b>	<b>24</b>
<b>Decisions (General) - Implementation</b>	<b>21</b>	<b>26</b>	<b>47</b>
<b>Diets</b>			
Medical	10	20	30
Religious	7	13	20
<b>Total</b>	<b>17</b>	<b>33</b>	<b>50</b>
<b>Discipline</b>			
ICP Decisions	5	6	11
Minor Court Decisions	5	10	15
Procedures	15	26	41
<b>Total</b>	<b>25</b>	<b>42</b>	<b>67</b>
<b>Discrimination</b>	<b>2</b>	<b>6</b>	<b>8</b>
<b>Double Bunking</b>	<b>6</b>	<b>6</b>	<b>12</b>
<b>Employment</b>	<b>35</b>	<b>53</b>	<b>88</b>
<b>Financial Matters</b>			
Access	40	71	111
Pay	34	47	81
<b>Total</b>	<b>74</b>	<b>118</b>	<b>192</b>
<b>Food Services</b>	<b>38</b>	<b>50</b>	<b>88</b>
<b>Grievance</b>			
3 <sup>rd</sup> Level Review	25	20	45
Decision	19	13	32
Procedure	46	63	109
<b>Total</b>	<b>90</b>	<b>96</b>	<b>186</b>
<b>Harassment</b>	<b>37</b>	<b>35</b>	<b>72</b>
<b>Health and Safety - Inmate Worksites/Programs</b>	<b>1</b>	<b>6</b>	<b>7</b>

**Table A: Complaints By Category (cont.)**

Internal Response - see Glossary (2), Inquiries and Investigations - see Glossary (3)

<b>Category</b>	<b>I/R(2)</b>	<b>Inv (3)</b>	<b>Total</b>
<b>Health Care</b>			
Access	93	248	341
Decisions	60	102	162
Medication	111	158	269
<b>Total</b>	<b>264</b>	<b>508</b>	<b>772</b>
<b>Health Care - Dental</b>	<b>27</b>	<b>56</b>	<b>83</b>
<b>Hunger Strike</b>	<b>3</b>	<b>3</b>	<b>6</b>
<b>Immigration / Deportation</b>	<b>1</b>	<b>1</b>	<b>2</b>
<b>Information</b>			
Access/Disclosure	42	42	84
Correction	29	36	65
<b>Total</b>	<b>71</b>	<b>78</b>	<b>149</b>
<b>Inmate Requests</b>	<b>3</b>	<b>9</b>	<b>12</b>
<b>IONSCAN</b>	<b>1</b>	<b>8</b>	<b>9</b>
<b>Legal Counsel - Quality</b>	<b>35</b>	<b>27</b>	<b>62</b>
<b>Mental Health</b>			
Access/Programs	16	29	45
Quality	4	7	11
Self-Injury	8	64	72
<b>Total</b>	<b>28</b>	<b>100</b>	<b>128</b>
<b>Methadone</b>	<b>19</b>	<b>20</b>	<b>39</b>
<b>OCI</b>	<b>1</b>	<b>1</b>	<b>2</b>
<b>Official Languages</b>	<b>2</b>	<b>5</b>	<b>7</b>
<b>Operation/Decisions of the OCI</b>	<b>18</b>	<b>7</b>	<b>25</b>
<b>Outside Court</b>	<b>5</b>	<b>4</b>	<b>9</b>
<b>Parole Decisions</b>			
Conditions	20	50	70
Day Parole	12	17	29
Detention	5	8	13

**Table A: Complaints By Category (cont.)**

Internal Response - see Glossary (2), Inquiries and Investigations - see Glossary (3)

<b>Category</b>	<b>I/R(2)</b>	<b>Inv (3)</b>	<b>Total</b>
Full Parole	5	11	16
Revocation	46	54	100
<b>Total</b>	<b>88</b>	<b>140</b>	<b>228</b>
<b>Police Decisions or Misconduct</b>	<b>4</b>	<b>1</b>	<b>5</b>
<b>Private Family Visits</b>	<b>57</b>	<b>101</b>	<b>158</b>
<b>Program/Services</b>			
Women	2	9	11
Aboriginals	7	20	27
Access	22	37	59
Decisions	11	10	21
Language Other	1	3	4
Other	10	14	24
<b>Total</b>	<b>53</b>	<b>93</b>	<b>146</b>
<b>Provincial Matter</b>	<b>1</b>	<b>3</b>	<b>4</b>
<b>Release Procedures</b>	<b>45</b>	<b>49</b>	<b>94</b>
<b>Religious/ Spiritual</b>	<b>11</b>	<b>32</b>	<b>43</b>
<b>Safety / Security</b>			
Incompatibles	25	69	94
Worksite	2	3	5
<b>Total</b>	<b>27</b>	<b>72</b>	<b>99</b>
<b>Safety/Security of Offender(s)</b>	<b>38</b>	<b>63</b>	<b>101</b>
<b>Search and Seizure</b>	<b>23</b>	<b>29</b>	<b>52</b>
<b>Security Classification</b>	<b>48</b>	<b>91</b>	<b>139</b>
<b>Sentence Administration</b>	<b>11</b>	<b>16</b>	<b>27</b>
<b>SHU - NRC Reviews</b>	<b>1</b>	<b>0</b>	<b>1</b>
<b>Staff</b>	<b>206</b>	<b>209</b>	<b>415</b>
<b>Telephone</b>	<b>99</b>	<b>119</b>	<b>218</b>
<b>Temporary Absence</b>			
Escorted	9	49	58
Unescorted	2	12	14
<b>Total</b>	<b>11</b>	<b>61</b>	<b>72</b>
<b>Temporary Absence Decision</b>	<b>9</b>	<b>13</b>	<b>22</b>

## Table A: Complaints By Category (cont.)

Internal Response - see Glossary (2), Inquiries and Investigations - see Glossary (3)

Category	I/R(2)	Inv (3)	Total
<b>Transfer</b>			
Implementation	12	29	41
Involuntary	51	101	152
Pen Placement	18	29	47
Section 81 / 84	0	1	1
Voluntary	33	79	112
<b>Total</b>	<b>114</b>	<b>239</b>	<b>353</b>
<b>Urinalysis</b>	<b>7</b>	<b>9</b>	<b>16</b>
<b>Use of Force</b>	<b>16</b>	<b>60</b>	<b>76</b>
<b>Visits</b>	<b>48</b>	<b>77</b>	<b>125</b>
<b>Uncategorized(*)</b>			<b>159</b>
<b>Grand Total</b>			<b>6501</b>

(\*) Includes: complaint topics not currently represented by the complaint categories outlined above, or complaints that address multiple categories at the same time.

**Table B: Complaints By Institution / Region\***

Region / Institution	Number of Complaints	Number of Interviews	Number of Days Spent in Institutions
<b>FSW</b>			
Edmonton Women Facility	177	51	6.5
Fraser Valley	85	39	7
Grand Valley	344	75	9
Joliette	143	33	9
Nova	89	35	7
Okimaw Ohci Healing Lodge	7	5	1
<b>Total</b>	<b>845</b>	<b>238</b>	<b>39.5</b>
<b>Atlantic</b>			
Atlantic	162	71	13.5
Dorchester	305	57	12
Shepody Healing Centre	20	7	2.5
Springhill	137	48	7.5
<b>Total</b>	<b>624</b>	<b>183</b>	<b>35.5</b>
<b>Ontario</b>			
Bath	133	74	9
Beaver Creek	150	54	9
Collins Bay	84	41	8.5
Joyceville	229	58	12
Millhaven	242	56	7
RTC - Ontario	39	13	8
Warkworth	192	74	13
<b>Total</b>	<b>1069</b>	<b>370</b>	<b>66.5</b>
<b>Pacific</b>			
Kent	193	124	16
Kwikwèxwelhp	1	0	0
Matsqui	93	37	8.5
Mission	136	67	7.5
Mountain	203	102	9
RTC - Pacific	175	60	9
William Head	16	0	0
<b>Total</b>	<b>817</b>	<b>390</b>	<b>50</b>

**Table B: Complaints By Institution / Region\* (Cont.)**

<b>Region / Institution</b>	<b>Number of Complaints</b>	<b>Number of Interviews</b>	<b>Number of Days Spent in Institutions</b>
<b>Prairies</b>			
Bowden	142	48	7
Drumheller	135	35	7
Edmonton	200	58	12
Grande Cache	104	44	11
Grierson Centre	10	4	0.5
Pê Sâkâstêw	9	10	1
RPC- Prairies	194	60	7.5
Saskatchewan Penitentiary	413	128	12
Stan Daniels Centre	6	2	0.5
Stony Mountain	229	64	11
Willow Cree	0	0	0
<b>Total</b>	<b>1442</b>	<b>453</b>	<b>69.5</b>
<b>Québec</b>			
Archambault	302	78	14
Cowansville	103	55	9
Donnacona	258	113	12.5
Drummond	49	30	9
Federal Training Centre	248	84	9.5
La Macaza	94	30	9
Port Cartier	203	111	16
RRC Québec	83	28	10
SHU - USD	43	25	4
Waseskun Healing Lodge	3	0	1
<b>Total</b>	<b>1386</b>	<b>554</b>	<b>94</b>
<b>CCC/CRC/ Parolees in Community</b>	<b>303</b>	<b>8</b>	<b>3.5</b>
<b>Federal Inmates in Provincial Institutions</b>	<b>12</b>	<b>0</b>	<b>0</b>
<b>Uncategorized</b>	<b>3</b>	<b>0</b>	<b>0</b>
<b>Grand Total</b>	<b>6501</b>	<b>2196</b>	<b>358.5</b>

**Table C: Complaints and Inmate Population - By Region**

<b>Region</b>	<b>Total Number of Complaints</b>	<b>Inmate Population (*)</b>
Atlantic	624	1278
Quebec	1386	3405
Ontario	1069	3420
Prairie	1442	3959
Pacific	817	1985
Women's Facilities	845	711
CCC/CRC/Community/Provincial Facilities	315	N/A
Uncategorized	3	N/A
<b>Grand Total</b>	<b>6501</b>	<b>14758</b>

\* Inmate Population broken down by Region: As of March 29,2016, according to the Correctional Service of Canada's Corporate Reporting System.

**Table D: Disposition of Complaints by Action**

<b>Action</b>	<b>Disposition</b>	<b>Number of Complaints</b>
<b>Internal Response</b>		
	Uncategorized	55
	Advise/Information Given	1552
	Assisted by Institution	151
	Pending	1
	Recommendation	2
	Refer to Grievance Process	181
	Refer to Institutional Staff	374
	Refer to Warden	35
	Rejected as unfounded	113
	Systemic/Multiple	15
	Withdrawn	51
	<b>Total</b>	<b>2530</b>
<b>Inquiry</b>		
	Uncategorized	55
	Advise/Information Given	1274
	Assisted by Institution	1231
	Pending	8
	Recommendation	20
	Refer to Grievance Process	180
	Refer to Institutional Staff	392
	Refer to Warden	90
	Rejected as unfounded	108
	Systemic/Multiple	39
	Withdrawn	25
	<b>Total</b>	<b>3422</b>

**Table D: Disposition of Complaints by Action (Cont.)**

<b>Action</b>	<b>Disposition</b>	<b>Number of Complaints</b>
<b>Investigation</b>	Uncategorized	53
	Advise/Information Given	177
	Assisted by Institution	126
	Pending	2
	Recommendation	35
	Refer to Grievance Process	18
	Refer to Institutional Staff	13
	Refer to Warden	17
	Rejected as unfounded	59
	Systemic/Multiple	49
	Withdrawn	0
		<b>Total</b>
<b>Grand Total</b>		<b>6501</b>

**Table E: Areas of Concern Most Frequently Identified by Offenders**

**Total Offender Population**

<b>Category</b>	<b>#</b>	<b>%</b>
Health Care	772	11.88%
Conditions of Confinement	733	11.28%
Staff	415	6.38%
Cell Effects	414	6.37%
Transfer	353	5.43%
Administrative Segregation	260	4.00%
Parole Decisions	228	3.51%
Telephone	218	3.35%
Financial Matters	196	3.01%
Grievance	186	2.86%

**Aboriginal Offenders**

<b>Category</b>	<b>#</b>	<b>%</b>
Conditions of confinement	100	14.03%
Health Care	94	13.18%
Staff	53	7.43%
Cell Effects	42	5.89%
Transfer	28	3.93%
Mental Health	27	3.79%
Telephone	25	3.51%
Parole Decisions	24	3.37%
Administrative Segregation	21	2.95%
Visits	21	2.95%

**Women Offenders**

<b>Category</b>	<b>#</b>	<b>%</b>
Conditions of confinement	205	22.50%
Health Care	100	10.98%
Staff	57	6.26%
Cell Effects	41	4.50%
Administrative Segregation	40	4.39%
Mental Health	37	4.06%
Telephone	36	3.95%
Visits	31	3.40%
Temporary Absence	26	2.85%
Security Classification	25	2.74%

# ANNEX C: Other Statistics

## A. Mandated Reviews Conducted in 2015-16

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.

<b>Mandated Reviews by Type of Incident</b>	
Assault	43
Murder	1
Suicide	9
Attempted Suicide	12
Self-Harm	2
Injuries (Accident)	31
Overdose Interrupted	30
Death (Natural Cause)*	63
Death (Unnatural Cause)	5
<b>Total</b>	<b>196</b>

\* Deaths due to 'natural causes' are investigated under a separate Mortality Review process involving a file review conducted at National Headquarters.

## B. Use of Force Reviews Conducted by the OCI in 2015-16

Per policy, 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; and,
- Action plan to address deficiencies.

### OCI Use of Force Statistics for 2015-2016

	Atlantic Region	Quebec Region	Ontario Region	Prairie Region	Pacific Region	Federally Sentence Women	Total
<b>Reported incidents reviewed by the OCI</b>	204	381	334	506	240	168	1833
<b>Use of force measures applied</b>							
Emergency Response Team	38	27	52	37	13	5	172
Verbal intervention	194	299	254	475	209	154	1585
Physical Handling	154	247	256	366	192	130	1345
Restraint equipment	122	298	236	409	192	130	1387
Used of OC	115	246	179	323	148	112	1123
Use of CS	1	12	5	1	1	1	21
Distraction Device	1	0	1	0	0	0	2
Shield	13	18	35	45	11	12	134
Baton	0	10	15	7	3	1	36
Display/Charging firearm	2	1	1	4	0	0	8
Use of firearm-warning shot	3	1	1	8	1	0	14
Use of firearm – aimed shot	3	0	1	6	0	0	10
<b>Indicators of concerns</b>							
Aboriginal	29	62	61	232	69	98	551
Women	15	39	25	73	41		193
Mental Health Issues identified (CSC)	100	92	90	203	60	126	671
<b>Injuries</b>							
Injuries to offender	6	33	27	44	16	6	132

## C. Toll-Free Contacts in 2015-16

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: 25,621

Number of minutes recorded on toll-free line: 115,102

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## Glossary

### **Internal Response:**

A response provided to a complainant that does not require consultation with any sources of information outside the OCI.

### **Inquiry:**

Inquiries are the gathering of information in response to a complaint in order to respond to the question presented or to determine whether an investigation will be required in response to a complaint. Inquiries are distinguished from investigations in that they do not normally involve significant analysis, complex issues, and multiple sources of information or ongoing exchanges, dialogues or exchanges of information.

### **Investigation:**

A complaint where an inquiry is made with the Correctional Service and/or documentation is reviewed/analyzed by the OCI's investigative staff before the information or assistance sought by the offender is provided. Investigations vary considerably in terms of their scope, complexity, duration and resources required. While some issues may be addressed relatively quickly, others require a comprehensive review of documentation, numerous interviews and extensive correspondence with the various levels of management at the Correctional Service of Canada prior to being finalized. Systemic investigations examine areas of common concern of offenders and can be aimed at the institutional, regional or national level.